

BEFORE THE
NORTH CAROLINA UTILITIES COMMISSION

Docket No. P-772, Sub 8
Docket No. P-913, Sub 5
Docket No. P-989, Sub 3
Docket No. P-824, Sub 6
Docket No. P-1202, Sub 4

In the Matter of)
)
Joint Petition NewSouth)
Communications Corp., et al. for)
Arbitration with BellSouth)
Telecommunications, Inc.)

Raleigh, North Carolina
Monday, June 28, 2004
Deposition of SCOT FERGUSON,

a witness herein, called for
examination by counsel for the Joint
Petitioners, in the above-entitled action,
pursuant to Notice, the witness being duly
sworn by Nicole Ball Fleming, Court
Reporter and Notary Public in and for the
State of North Carolina, taken at the
offices of Parker Poe Adams & Bernstein,
150 Fayetteville Street Mall, Suite 1400,
Raleigh, North Carolina, beginning at 4:05
p.m., on Monday, June 28, 2004, such
proceedings being taken stenographically
by Nicole Ball Fleming.

<div>Page 2</div> <div>1 APPEARANCES OF COUNSEL</div> <div>2</div> <div>3 On behalf of the Joint Petitioners</div> <div>4 Stephanie Joyce</div> <div>5 John J. Heitmann</div> <div>6 Kelley Drye & Warren</div> <div>7 1200 19th Street, NW</div> <div>8 Suite 500</div> <div>9 Washington, DC 20036</div> <div>10</div> <div>11 On behalf of BellSouth</div> <div>12 Jim Meza</div> <div>13 BellSouth Legal Department</div> <div>14 675 West Peachtree Street, NE</div> <div>15 Suite 4300</div> <div>16 Atlanta, GA 30375</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 4</div> <div>1 STIPULATIONS</div> <div>2 Prior to examination of the witness</div> <div>3 counsel for the parties stipulated and</div> <div>4 agreed as follows:</div> <div>5 1. Said deposition shall be taken for</div> <div>6 the purpose of discovery or for use as</div> <div>7 evidence in the above-entitled action or</div> <div>8 for both purposes as permitted by the</div> <div>9 applicable rules of civil procedure.</div> <div>10 2. Any objections of any party hereto as</div> <div>11 to Notice of the taking of said deposition</div> <div>12 or as to the time and place thereof or as</div> <div>13 to the competency of the person before</div> <div>14 whom the same shall be taken are hereby</div> <div>15 waived.</div> <div>16 3. Objection to questions and motions to</div> <div>17 strike answers need not be made during the</div> <div>18 taking of this deposition, but may be made</div> <div>19 for the first time during the progress of</div> <div>20 the trial of this case or at any pretrial</div> <div>21 hearing held before the Judge for the</div> <div>22 purpose of ruling thereon or at any other</div> <div>23 hearing of said case at which said</div> <div>24 deposition might be used, except that an</div> <div>25 objection as to the form of a question</div> <div>must be made at the time such question is</div> <div>asked or objection is waived as to the</div> <div>form of the question.</div> <div>4. That all formalities and requirements</div> <div>of the Statute with respect to any</div> <div>formalities not herein expressly waived</div> <div>are hereby waived, especially including</div> <div>the right to move for the rejection of</div> <div>this deposition before trial for any</div> <div>irregularities in the taking of the same</div> <div>either in whole or in part or for any</div> <div>other cause.</div> <div>5. That the sealed original transcript</div> <div>of this deposition shall be mailed</div> <div>first-class postage or hand-delivered to</div> <div>the party taking the deposition or its</div> <div>attorney for preservation and delivery to</div> <div>the Court if and when necessary.</div>
<div>Page 3</div> <div>1 INDEX TO EXAMINATIONS & EXHIBITS</div> <div>2 Examination Page</div> <div>3 Direct by Ms. Joyce 5</div> <div>4 Cross by Mr. Meza 102</div> <div>5 ---</div> <div>6 Deposition Exhibit Page</div> <div>7 1 Notice of Deposition 7</div> <div>8 2 Direct Testimony 9</div> <div>9 3 Attachment to Request for</div> <div>10 Production, Item No. 2-25-1 43</div> <div>11 4 FCC 02-147 76</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 5</div> <div>1 SCOT FERGUSON,</div> <div>2 having been duly sworn,</div> <div>3 testified as follows:</div> <div>4 DIRECT EXAMINATION</div> <div>5 BY MS. JOYCE:</div> <div>6 Q. Please state your name and business</div> <div>7 address for the record.</div> <div>8 A. My name is Scot Ferguson, S-c-o-t,</div> <div>9 F-e-r-g-u-s-o-n. My business address is</div> <div>10 675 West Peachtree Street, Atlanta 30375.</div> <div>11 MR. MEZA: I'm sorry, are we</div> <div>12 agreeing to the usual stipulations to this</div> <div>13 deposition?</div> <div>14 MS. JOYCE: The usual stipulations</div> <div>15 will apply to this deposition.</div> <div>16 Q. Mr. Ferguson, my name is Stephanie Joyce,</div> <div>17 and I am counsel to the following</div> <div>18 companies --</div> <div>19 MR. MEZA: I'm sorry. I forgot to</div> <div>20 do something in the last deposition. Do</div> <div>21 you mind if we annexed this portion of the</div> <div>22 transcript to Mr. Owens? I wanted to be</div> <div>23 able to reserve the right to read and</div> <div>24 sign. I want to make sure that was</div> <div>25 expressed for his deposition.</div>

<p style="text-align: right;">Page 6</p> <p>1 MS. JOYCE Yeah, I think in 2 accordance with the general practices and 3 stipulations, you -- 4 MR. MEZA. I want to make sure our 5 understanding is the same as to that, what 6 are the usual stipulations 7 MS. JOYCE Right 8 MR. MEZA Okay. 9 MS. JOYCE So have the right to 10 make corrections -- 11 MR. MEZA. Yeah. 12 MS. JOYCE -- and sign 13 MR. MEZA. Yeah 14 MS. JOYCE. 30 days I think is 15 the -- 16 MR. MEZA That's right 17 MS. JOYCE. All right 18 MR. MEZA Sorry. 19 Q My name is Stephanie Joyce, and I 20 represent NuVox, NewSouth, KMC, and 21 Xspedius You understand that these 22 companies are petitioners in this case 23 And I'm going to refer to them as 24 competitive local providers or C-L-P, 25 CLPs Does that term make sense to you?</p>	<p style="text-align: right;">Page 8</p> <p>1 received last week. 2 Q. And there on the first page, bottom of the 3 page states that you, the witness, shall 4 be prepared to respond to questions 5 related to all matters contained in your 6 direct testimony that's been filed in this 7 case Do you understand what that means? 8 A Yes, I do 9 Q Have you ever been deposed before? 10 A No, I have not. 11 Q It's an honor and a pleasure to be your 12 first deposer 13 Do you understand the rules of a 14 deposition, Mr. Ferguson? 15 A. I think that generally I do, yes 16 Q To review them briefly, you are under 17 oath. And the answers that you give to me 18 today can be admitted at a hearing as if 19 you were present at that hearing. Do you 20 understand that? 21 A Yes, I do. 22 Q And do you understand that the court 23 reporter cannot record a shaking of your 24 head, that you must give an audible yes or 25 a no or other response?</p>
<p style="text-align: right;">Page 7</p> <p>1 A Yes, it does 2 Q. If I call them a competitive local 3 exchange carrier or CLEC, would that make 4 sense to you? 5 A Yes, it would. 6 Q. Typically, I'll refer to these companies 7 as Joint Petitioners, so will that make 8 sense to you? 9 A Yes, ma'am. 10 Q. Do you know why you're here today, 11 Mr. Ferguson? 12 A Yes, I do 13 Q And tell me why 14 A It's my understanding that I'm here to 15 answer questions about my testimony, to 16 provide you additional information to help 17 you get ready to cross-examine me in 18 hearings. 19 (DEPOSITION EXHIBIT NO 1 WAS MARKED.) 20 Q I'm handing you an exhibit I'm going to 21 mark as 1. Mr. Ferguson, do you recognize 22 this document? 23 A Yes, I do 24 Q What is it? 25 A It's my notice of deposition that I</p>	<p style="text-align: right;">Page 9</p> <p>1 A I understand 2 Q. And do you understand that you must answer 3 my questions unless Mr. Meza instructs you 4 not to? Do you understand? 5 A. Yes, I do. 6 Q Are you on any medications or do you have 7 any other condition that would prevent you 8 from answering the questions I'm going to 9 pose to you today? 10 A. No, ma'am. 11 (DEPOSITION EXHIBIT NO. 2 WAS MARKED) 12 Q I'm handing you a document I've marked as 13 Exhibit 2. Can you tell me what this 14 document is? 15 A. This is my direct testimony filed in the 16 State of North Carolina along with the 17 exhibits that I filed back on June the 18 4th. 19 Q. Can you verify that your exhibits are on 20 the back of this document? 21 A Yes, they are. 22 Q And what's your present title at BellSouth 23 right now? 24 A. I am considered to be a manager in 25 network -- the Network Services</p>

<p>Page 10</p> <p>1 Organization in dealing with regulatory 2 issues 3 Q What are your responsibilities as manager? 4 A. Up until this hearing, these proceedings, 5 I have been a testimony writer in support 6 of an OSS witness And now I'm taking on 7 some of the responsibilities that he had 8 as an OSS witness as well as one of our 9 other witnesses who was more involved in 10 network-related issues. 11 Q And for which OSS witness did you write 12 testimony? 13 A Ron Pate 14 Q Any other witness? 15 A I have written for one other witness, 16 Milton McElroy. 17 Q M-c-E-l-r-o-y? 18 A. Yes 19 Q Did you testify at a hearing regarding 20 that testimony? 21 A I have not testified 22 Q At page 1 of your testimony, if you'll 23 look at that, please, it states that your 24 career has spanned over 30 years with 25 Southern Bell, AT&T, and BellSouth</p>	<p>Page 12</p> <p>1 you look at corporate -- corporate 2 structure, I know that within the 3 operating side of the business, we have 4 BellSouth Business Systems, BellSouth 5 Consumer, and I believe there's one called 6 Small Business that are generally 7 considered to be the retail operations 8 And then the organization that I'm in 9 within, Network, is interconnection 10 services, and that is the wholesale 11 operation 12 Q. So you're involved in wholesale issues for 13 BellSouth? 14 A Yes. 15 Q You state on page 1 that you've held 16 positions of increasing responsibility in 17 sales and marketing. Is that sales and 18 marketing for BellSouth? 19 A Southern Bell back when I began my career 20 in the mid-'70s. 21 Q. And did that entail marketing services to 22 end users? 23 A. Yes. 24 Q. And then you state that you're involved in 25 customer system design. Was that also for</p>
<p>Page 11</p> <p>1 Corporation and BellSouth 2 Telecommunications 3 What is the difference between 4 BellSouth Corporation and BellSouth 5 Telecommunications? 6 A The BellSouth Corporation entity is the 7 parent of all the BellSouth companies. 8 It's a very small organization. BellSouth 9 Telecommunications is what we -- probably 10 most people would think of as the phone 11 company, the operations portion of the -- 12 BellSouth 13 Q Does BellSouth Telecommunications provide 14 service to end user customers? 15 A. Yes, it does 16 Q Does it provide service to CLPs? 17 A Yes, it does 18 Q So then would it be fair to say that 19 BellSouth Telecommunications has a retail 20 entity that serves end users and wholesale 21 entity that serves CLPs? 22 A I believe that's a fair statement, yes. 23 Q. Are there formal designated divisions that 24 reflect that characterization? 25 A. What I can tell you -- and, you know, if</p>	<p>Page 13</p> <p>1 Southern Bell? 2 A. Yes, that was. Uh-huh. 3 Q. And was this designing systems for an end 4 user customer? 5 A Yes. 6 Q. Was it ever designing systems for another 7 telecommunications carrier? 8 A No. 9 Q. And with regard to product management, is 10 that also a BellSouth -- or, excuse me, 11 Southern Bell? 12 A. That was at Southern Bell, AT&T, and 13 BellSouth Services after the divestiture 14 Q. Were these products that were provided to 15 end user customers? 16 A Yes, they were. 17 Q. And you also mention here that you're 18 involved in public relations Which 19 companies did you perform public relations 20 work? 21 A. BellSouth 22 Q. BellSouth Corporation? 23 A. BellSouth Telecommunications. 24 Q. What were your responsibilities with 25 respect to public relations for BellSouth</p>

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1 Telecommunications?
2 A. Primarily I was involved with employee
3 communications, internal publications and
4 internal news dissemination within the
5 company. It was not externally focused.
6 Q. So what kind of communications would --
7 A. Written, wrote a number of articles for
8 the company newsletter, other company
9 publications. Worked on some advertising
10 projects.
11 Q. Which kinds of services? For which kinds
12 of services?
13 A. No specific services. This was mainly to
14 disseminate employee information. Every
15 now and then, I guess I did write an
16 article about some new types of services
17 that were being introduced, if that's what
18 you mean.
19 Q. The articles that you wrote, were they
20 used by BellSouth personnel that deal with
21 end user customers?
22 A. It was read by BellSouth employees that
23 had dealings with end user customers, yes.
24 Q. Did it assist them in dealing with end
25 user customers?

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1 A. To the extent that they learned about new
2 products and services that the company may
3 have been introducing. It gave them
4 information.
5 Q. And you're not trained as an attorney, are
6 you, Mr. Ferguson?
7 A. No, I am not.
8 Q. Do you have any paralegal training?
9 A. No, I do not.
10 Q. Did you participate in the negotiations
11 for the interconnection agreement that's
12 at issue in this arbitration?
13 A. If -- By that question, do you mean
14 directly?
15 Q. For example, did you participate on an
16 actual phone call with counsel for direct
17 petitioners in which negotiations were --
18 A. No, I did not.
19 Q. Did you provide advice or counsel to
20 BellSouth personnel that were on those
21 negotiation phone calls?
22 A. Yes, I did.
23 Q. And regarding which subject matters did
24 you provide this advice and counsel?
25 A. The topics that are in the testimony that

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1 I filed in North Carolina as well as a
2 couple of other issues that were -- that
3 have been settled up till now and several
4 other issues that a couple of other
5 witnesses are actually handling in terms
6 of testimony.
7 Q. And can you tell me which issues would be
8 handled by these other witnesses in this
9 case?
10 A. I can -- You know, I can't -- I can't
11 say that I can give it to you by number,
12 because there are quite a number of them
13 overall, but they were in the Attachment 6
14 section, some of the -- like 6-1 through
15 6-8 or 9 -- dash 8 or 9, I believe. Of
16 course, one of those is mine.
17 Q. Did you advise Carlos Marlo?
18 A. Yes, I did.
19 Q. Did you advise Eddie Owens?
20 A. No.
21 Q. Can you think of any other witness in this
22 case that you provided advice to?
23 A. Kathy Blake. Originally, they were her
24 issues.
25 Q. Did you review Ms. Blake's testimony

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1 that's been written and filed in this
2 case?
3 A. Some of it, I did, yes.
4 Q. Did you edit that testimony?
5 A. Not to my recollection.
6 Q. Did you discuss with her the topics that
7 would be discussed in her testimony?
8 A. Yes.
9 Q. Have you discussed with anyone at
10 BellSouth the testimony that you'll be
11 giving today in deposition?
12 A. Yes.
13 Q. And without revealing any privileged
14 communication between you and your lawyer,
15 can you tell me who those persons were?
16 A. Well, in addition to my lawyers, I've
17 discussed it with Ron Pate, who's my boss,
18 and Keith Milner.
19 Q. Now, as I understand, Mr. Milner works in
20 interconnection services as a director?
21 A. Senior director.
22 Q. Have you discussed OSS-related issues with
23 Mr. Milner?
24 A. Not with Mr. Milner. His was the -- more
25 the network-related topics.

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 Q. Did you participate in providing responses 2 to discovery to the questions the Joint 3 Petitioners posed to BellSouth in this 4 case? 5 A. Yes, I did. 6 Q. And were these questions related to the 7 issues for which you've given testimony? 8 A. That is correct. 9 Q. Were there any other questions not related 10 to the issues you've testified for that 11 you helped with? 12 A. Not that I recall, I don't believe I did. 13 Q. And why did you choose to write testimony 14 for this arbitration? 15 MR. MEZA Object to the form of 16 that question. You can answer, if you 17 can 18 A. The company chose for me to write the 19 testimony for this arbitration, and 20 because I have been a testimony writer, I 21 chose to write my own. 22 Q. And do you have any knowledge as to why 23 Ron Pate didn't testify on these issues in 24 this case? 25 MR. MEZA Object, and instruct</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Just did anyone other than yourself input 2 evidence into your testimony? 3 A. Yes. 4 Q. And can you tell me who those persons 5 were? 6 A. The same. But I approved all of the final 7 product before it went out. 8 Q. Mr. Ferguson, do you believe that 9 BellSouth competes in the local 10 telecommunications market in North 11 Carolina? 12 A. Yes, I do 13 Q. And with whom does BellSouth compete? 14 A. I don't know precisely the numbers, but 15 there's somewhere in the neighborhood of 16 100-plus CLPs, C-L-Ps. 17 Q. Are the Joint Petitioners included in that 18 list? 19 A. Yes, I believe that all of them are 20 represented in this one. I know they're 21 not all represented in all of the states, 22 but it -- I believe they're all here. 23 Q. You're referring to NewSouth, KMC, Nuvox, 24 and Xspedius? 25 A. Yes, and their various derivatives</p>
<p style="text-align: right;">Page 19</p> <p>1 you not to answer. It calls for 2 attorney-client privilege and/or work 3 product. 4 Q. Did you discuss that matter with Ron Pate 5 as to why he's not testifying in this 6 case? 7 A. Not -- Not that I recall. 8 Q. Did anyone review your draft of your 9 testimony that you've provided in this 10 case? 11 A. Yes 12 Q. Can you tell me who those persons were? 13 A. It's a long list. We have a -- We have 14 an internal distribution list for all 15 testimony, but primarily the ones that I 16 actually reviewed it with actively were my 17 attorneys and Mr. Pate and Mr. Milner 18 Q. To your knowledge, did anyone 19 electronically edit your testimony after 20 you wrote the draft? 21 A. Do you mean before it was filed? 22 Q. Yes 23 A. That I would not have been aware of? 24 Q. No 25 A. Oh, no.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Do you consider those entities competitors 2 of BellSouth? 3 A. Yes, I do. 4 Q. Mr. Ferguson, what do you believe loop 5 makeup information is? 6 A. At a high level, loop makeup information 7 is technical characteristics of an 8 existing facility that allow a CLP to view 9 that information and then make an 10 independent decision as to whether or not 11 the type of service they wish to offer 12 over that facility will actually work on 13 that facility. 14 Q. Does only a CLP view loop makeup 15 information? 16 A. No. 17 Q. What other entity would view it? 18 A. BellSouth. 19 Q. Does BellSouth use loop makeup 20 information? We're going to call it LMU. 21 Do you know what that means? 22 A. Yes. 23 Q. Does BellSouth use loop makeup information 24 to make determinations about its own 25 services?</p>

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1 A Yes, it does
2 Q Can you give me examples of what LMU
3 comprises?
4 A. Sure At the top of the list, I would put
5 the structure of the facility itself,
6 generally whether it's copper or fiber.
7 If it's copper, we would give information
8 as to what gauge If it's fiber, we would
9 give other relatively similar information
10 to give someone an indication of what some
11 of its characteristics -- anybody that
12 understood technical issues about fiber,
13 we would provide a little bit of
14 information that would help them -- like
15 for gauge for wire, some other
16 characteristics for the fiber itself.
17 Whether or not there was a presence of
18 load coils, whether or not there was any
19 bridge taps, the distances between the
20 load coils and/or bridge taps and -- boy
21 -- repeaters, just other basic technical
22 characteristics of it along with some
23 distances involved
24 Q. If a load coil were present on a loop, why
25 would that be relevant?

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1 A. Well, because some products or services
2 require -- due to technical performance
3 parameters, some products and services
4 require that no load coils be present on
5 the line. And so if you're trying to
6 offer one that has those parameters, you,
7 as a CLP, would like to know that before
8 you try to put it on there So it's --
9 it all -- it's all determined by what
10 service you're trying to put on the line.
11 Some services work fine with load coils
12 Q And so essentially all of the bits of
13 information you've listed for me would
14 tell BellSouth or a CLP what kind of
15 services are appropriate over a loop?
16 A It's for that company to determine whether
17 the products or services they're offering
18 would work over that -- those
19 facilities We provide basic information
20 about the circuit, and our folks know what
21 our -- what services we have will work
22 over, and we would assume that the CLPs'
23 engineers and salespeople would have the
24 same knowledge about their own products
25 and services.

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1 And I would like to add that that
2 is not a totally inclusive list I mean,
3 there are other things like whether or not
4 there are remote terminals There's
5 just -- There are other things, and I
6 just want to make the point that that is
7 not an all inclusive list by any means
8 Q. Does the list grow over time as BellSouth
9 becomes more aware of different services?
10 A. To say -- To say that it would grow over
11 time, that's a fairly consistent list over
12 time. That's basic network structure
13 items.
14 Q. How did you, for your own purposes, put
15 together this list of information that you
16 deemed to be LMU?
17 A It's available in one of my exhibits, as a
18 matter of fact. There's an LMU guide that
19 lays out all of -- for the CLPs
20 Q. Were there any other sources that you
21 relied on?
22 A. Well, at the time that I began writing
23 this testimony, in my work group was a
24 product manager who was considered one of
25 the most knowledgeable about loop makeup

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1 and all of the line-sharing type products
2 and services, and so --
3 Q. And who was that?
4 A Her name is Leanne Griffin.
5 Q Was there any other written documentation
6 that you referred to when you derived this
7 list?
8 A. Not specifically, no.
9 Q Would a BellSouth employee that is on the
10 retail side have access to LMU?
11 A. Yes.
12 Q How would they access it?
13 A I don't know.
14 Q Where is LMU stored?
15 A. Well, loop makeup information comes from
16 our LFACS, L-F-A-C-S, LFACS database loop
17 facility assignment control system, I
18 believe, and both CLPs and our retail
19 units have access to the information in
20 the same database.
21 Now, you asked me, how does retail
22 do it? I don't know physically how --
23 what they use to get there, but that's the
24 database they're going to, just like the
25 CLPs are.

7 (Pages 22 to 25)

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1 Q Do you know how CLEC or CLPs personnel
2 would access LFACS?
3 A. Well, they use their interfaces, either
4 their EDI LENS, or now it's TAG XML
5 preordering, ordering interfaces to get to
6 it
7 Q. And L-E-N-S, LENS, what does that stand
8 for?
9 A. Local Exchange Navigation System.
10 Q. And TAG, what does that stand for?
11 A I'm not --
12 Q Is it Telecommunications Access Gateway?
13 A Yes, it is But now the XML that's been
14 added to it has been -- that's just --
15 that's a scheme up That's a software
16 designation that's been added to it
17 They've changed the TAG interface within
18 the last year-and-a-half, I believe, to go
19 from the original TAG to TAG XML. But
20 it's -- in my mind, it's still the same
21 TAG interface, just a different format
22 Q Have you ever accessed LFACS for yourself?
23 A Not personally I have seen it done
24 Q Have you ever seen TAG accessed?
25 A I can't -- No

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1 Q I think that you have referenced your
2 first exhibit, so why don't we turn to
3 that. I'll give you a moment to find it
4 in that document A letter -- or,
5 actually, I'll let you refer me to the
6 exhibit that you mentioned was a
7 source --
8 A. Okay.
9 Q -- for the list of LMU that you gave me
10 A All right Let's go to then SF-2, Exhibit
11 SF-2 Turn to page 4 And in the very
12 last reference down there where it starts,
13 it says UR 7762.0021. At that point and
14 going forward, this is what the LFACS data
15 looks like as it's presented to CLEC or
16 CLP or BellSouth And you will find on
17 the next page under other, that's the
18 list
19 And I will also say that up in
20 the -- what looks like a data screen just
21 ahead of that list of other, that
22 information will be -- could be somewhere
23 up in there. It could actually show up up
24 in there
25 Q So this is a screen shot, if you will?

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1 A In effect, yes, it is
2 Q The title of this document is Requirements
3 for Mechanization of Loop Makeup for CLEC,
4 xDSLs. Did you write this document?
5 A No, I did not. Actually, I believe that's
6 xDSLs. I think that's a plural
7 Q. Oh, as in xDSL loops?
8 A. Yeah. Probably should have been a small S
9 there at the end.
10 Q. Yes, you must fix that. What does ENCORE
11 User refer to?
12 A The ENCORE systems are the systems that
13 were developed to provide all the
14 interface, ordering, preordering
15 interfaces for the CLPs back late 19 -- I
16 guess 1997, '98 time frame The ENCORE
17 suite of systems, if you will, includes
18 the interfaces for the LENS TAG, now TAG
19 XML, and the EDI.
20 Q Is ENCORE an acronym or just a noun?
21 A I'm sure it is an acronym, but I couldn't
22 tell you what it stands for That's been
23 around awhile, longer than I've been in
24 this operation.
25 Q So ENCORE is something a CLP would use?

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1 A. Yes Again, the ENCORE suite of
2 interfaces are all based on getting --
3 depending on what the CLP determines is
4 best interface for them. Whatever they
5 use to get their information to us, it all
6 merges and is part of the ENCORE process
7 to get it to the point where it will
8 create a service order in our service
9 order system and get it downstreamed to be
10 processed. But that's the front end of
11 the wholesale ordering and preordering
12 processes.
13 Q So no BellSouth personnel would use ENCORE
14 to place an order for a BellSouth
15 customer; is that correct?
16 A That is correct, yes.
17 Q All right Let's look briefly at your
18 first exhibit.
19 MS JOYCE: And I'll note for the
20 record that SF-2 has been marked private
21 and proprietary, Jim.
22 MR. MEZA. Yes.
23 MS JOYCE: So the testimony
24 regarding that exhibit must be marked
25 confidential

<p style="text-align: right;">Page 30</p> <p>1 MR MEZA. Thank you for pointing 2 that out. 3 Q. SF-1, did you write this document? 4 A. No, I did not 5 Q. And it's called Letter of Authorization 6 for Line Splitting? 7 A. CLEC Information Package, yes. 8 Q. And you provided this with your testimony? 9 A. I did 10 Q. And for what purpose? 11 A. The purpose is to show that there is, in 12 fact, currently a requirement in place for 13 a letter of authorization if one CLEC 14 wants to look at information about -- or 15 the loop makeup information on a facility 16 that's currently under the control of 17 another CLEC, CLP 18 Q. All right. And if you could turn to SF-3, 19 your third exhibit. Again, this states 20 Letter of Authorization for LMU to Support 21 Line Splitting? 22 A. Yes. 23 Q. And you provided this document with your 24 testimony for what purpose? 25 A. I provided it to just indicate that user</p>	<p style="text-align: right;">Page 32</p> <p>1 CCP. And given that the original 2 requirement to -- that -- requires an LOA 3 for loop makeup went through the CCP, 4 we're suggesting that the Joint 5 Petitioners do the same thing. If it's 6 approved and if it's changed, BellSouth 7 has no problem making the change, but we 8 can't -- we can't violate what the CCP 9 has already put in place. 10 Q. Why can't you violate it? 11 A. Well, then it would just render the CCP 12 ineffective if we were to do it because we 13 would certainly get complaints about it. 14 They would -- Other CLPs would go to the 15 various commissions and complain that 16 BellSouth had violated a change request or 17 a process that had been put in place 18 through the CCP. And then we would be up 19 against other charges in front of all the 20 other commissions for having violated 21 CCP. And we're simply not going to -- 22 not going to do that. 23 Q. Now, you've provided, what we've just gone 24 over, two examples of letters of 25 authorization. We've established that</p>
<p style="text-align: right;">Page 31</p> <p>1 requirements were published at the time 2 this feature was implemented by BellSouth 3 into the ENCORE system, and user 4 requirements are a document that all CLPs 5 are sent. And my point was that these 6 have been out since 2001 and we're just 7 now getting a complaint or a concern that 8 a certain group of CLPs don't agree that 9 this is a process that's for them. 10 Q. Are you referring to Joint Petitioners? 11 A. Yes, I am. 12 Q. Can you tell me what SF-4, the fourth 13 exhibit, portrays or depicts? 14 A. Yes. This is a change request that was 15 developed by a group of CLPs through the 16 change control process, which is our 17 change management -- our compliant change 18 management process at BellSouth. 19 And I use this as an example of 20 something that the Joint Petitioners could 21 do if they want to try to change the 22 existing process, meaning the requirement 23 for an LOA. If they want to change an 24 existing process, this is how you do it. 25 You submit a change request through the</p>	<p style="text-align: right;">Page 33</p> <p>1 they both apply to line splitting. Could 2 those LOAs be used for another purpose by 3 a CLP? 4 A. Can I make one clarification? The two 5 exhibits that I provided, one is the -- 6 is the process documents, the information 7 package. The other document is about the 8 same thing. That was just the 9 requirements for when it was actually 10 implemented. It's not two separate LOA 11 processes. It's just two different 12 documents on the same process. 13 Q. And the process is line splitting? 14 A. It was originally put in as -- in 15 response to the line sharing collaborative 16 request specifically for line splitting. 17 But this is the type of feature that -- 18 And, again, a change request was 19 submitted, BellSouth approved it, and 20 BellSouth implemented the feature. It's 21 the type of feature that it's either on or 22 off. You know, even though it says line 23 splitting, that was just the impetus for 24 it. 25 And up until now, we've not had</p>

<p style="text-align: right;">Page 34</p> <p>1 any concern expressed to us that -- the 2 fact that it spills over maybe into other 3 types of products and services, that's 4 never been an issue before 5 Q Have other CLPs actually used this LOA for 6 purposes other than line splitting? 7 A I can't answer that. I don't know. 8 Q Then I must be misunderstanding you. Why 9 would there be a spillover of using this 10 into other areas? 11 A. Well, you're talking about line splitting 12 here. There's line sharing. There are a 13 number of other shared loop. That's the 14 generic term, shared loop, which includes 15 line splitting, line sharing, and various 16 other things 17 The only thing that I'm aware of 18 is that most -- what I am aware of is, is 19 that where this is applicable, this LOA or 20 the need to look at other -- another 21 CLP's facility, this has been the main use 22 of it in the past 23 Q For what purpose would a CLP need to look 24 at a facility used by another CLP in those 25 instances?</p>	<p style="text-align: right;">Page 36</p> <p>1 wide band service leaving the voice part 2 at the low end of the spectrum to continue 3 to be provided by the original voice CLP. 4 Now, when the data provider wanted 5 to be sure that that facility could 6 provide the capable facility for the 7 product or service, they needed to go look 8 at that facility. It was already 9 controlled by another CLEC or a CLP, 10 primarily -- you know, using it for 11 voice. Well, this other company wants to 12 come in on top of that and basically split 13 the facility, use the upper end for the 14 data service, but they need to know about 15 the entire facility to understand whether 16 or not their data product would work on it 17 in the first place, and that's where it 18 all started. And the CLP -- the voice CLP 19 that currently had the facility -- as a 20 body, the CLPs expressed concern to us 21 through the CCP about that capability, and 22 that's where they required of us to 23 implement the LOA process. 24 Q. Have you ever seen an LOA that was used by 25 one CLP that had nothing to do with a</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Well, I wouldn't say they need to. I 2 would say they would want to in order to 3 determine whether or not the types of 4 products and services they offer could be 5 applied to an end user who's already being 6 served by a CLP in an effort to take that 7 end user from the -- CLP A. CLP B would 8 be wanting to use the information to 9 determine whether or not they had a 10 product or service to market to that same 11 end user. 12 Q Do you know of specific instances in which 13 that was done? 14 A No, I do not 15 Q And why were these LOAs created 16 specifically with a view to a shared loop? 17 A The idea for shared loop products has to 18 do with the idea that you're actually 19 having a CLP or a competitive local 20 provider -- competing local provider with 21 the voice service sharing that same loop 22 with what we called a DLEC or a data local 23 exchange carrier, data local provider who 24 would be wanting to use the high end part 25 of the spectrum to provide some sort of a</p>	<p style="text-align: right;">Page 37</p> <p>1 shared loop being used by another CLP? 2 A. No, I have not. 3 Q Do you know whether BellSouth -- strike 4 that. 5 If BellSouth received an LOA in 6 this form and it was not in the context of 7 a shared loop situation, would that answer 8 your concerns that you raise in your 9 testimony about the need for an LOA? 10 MR. MEZA. Object to the form. 11 A. Could you please rephrase it? 12 Q If you received from a CLEC a letter of 13 authorization and it was in the form of 14 your exhibit, SF-1, but the loop that the 15 inquiry was about was not a shared loop, 16 would that answer the concern you raised 17 in your testimony about why BellSouth 18 needs an LOA? 19 A Let me just say right up front that we 20 want an LOA and we don't care whether it's 21 for a shared loop product or if it's just 22 another CLP looking at -- CLP A looking at 23 CLP B's existing facility information. We 24 want an LOA. It's not product or service 25 specific as far as we're concerned,</p>

<p>1 because --</p> <p>2 Q Is there an LOA form that does not have</p> <p>3 the words line splitting on it, to your</p> <p>4 knowledge?</p> <p>5 A Do you mean an LOA-type CLEC information</p> <p>6 package?</p> <p>7 Q Yes, like what you've had --</p> <p>8 A No The LOA is the LOA. It requires</p> <p>9 three bits of information, and that would</p> <p>10 be consistent across whatever product or</p> <p>11 service</p> <p>12 I told you earlier, the fact that</p> <p>13 we have implemented this product -- or,</p> <p>14 I'm sorry, implemented this feature means</p> <p>15 it's implemented The requirement is</p> <p>16 there. It's not a -- It's not a</p> <p>17 selective thing based on product or</p> <p>18 service We either require an LOA for a</p> <p>19 CLP to look at another CLP or we don't</p> <p>20 require it And there's no way physically</p> <p>21 that the systems can be set up to say, if</p> <p>22 they're looking at it for a local product</p> <p>23 or service, they don't need an LOA; if</p> <p>24 they're looking at it for line splitting</p> <p>25 product service, they do need an LOA</p>	Page 38	<p>1 MR. MEZA: Sorry.</p> <p>2 MS. JOYCE: Thank you for</p> <p>3 suggesting the answer, Mr. Meza.</p> <p>4 Q But under any circumstances, has it been</p> <p>5 overturned by anybody?</p> <p>6 A. We have had changes in the process based</p> <p>7 on change requests submitted by CLPs.</p> <p>8 Whether or not that was overturning any</p> <p>9 process -- it could happen. I mean, part</p> <p>10 of the change control process is that you</p> <p>11 can make changes to the process, not just</p> <p>12 the CCP but a process like this, a change</p> <p>13 can be made. Like I said, there have been</p> <p>14 a lot of changes made, and whether you can</p> <p>15 categorize them as overturning a process,</p> <p>16 I can't really say I'm not -- I don't</p> <p>17 believe I'm aware of an existing -- you</p> <p>18 know, specifically an existing process</p> <p>19 that has been changed back, but it</p> <p>20 certainly could happen if the right pieces</p> <p>21 fell into place And there are rules</p> <p>22 about what it takes to change a process,</p> <p>23 and they are laid out in the change</p> <p>24 control process document.</p> <p>25 Q. Has the North Carolina Utilities</p>	Page 40
<p>1 Do --</p> <p>2 Q. So is it your testimony that there are</p> <p>3 instances in which an LOA would not be</p> <p>4 required if a CLP were inquiring about a</p> <p>5 loop?</p> <p>6 A. No, I'm not saying that. I'm saying that</p> <p>7 because we have implemented the feature,</p> <p>8 all inquiries must be preceded by an LOA.</p> <p>9 Now, just to make sure that we're</p> <p>10 clear on this. If they submitted a change</p> <p>11 request to the CCP and the CCP approved it</p> <p>12 and said, okay, let's turn that</p> <p>13 requirement off, then nothing would</p> <p>14 require an LOA, not even the line</p> <p>15 splitting anymore We would be, in</p> <p>16 effect, overturning that feature that's</p> <p>17 already implemented But the current</p> <p>18 thing is that we require an LOA, and</p> <p>19 that's at the request of the CLPs.</p> <p>20 Q. Has there ever been an instance in which a</p> <p>21 resolution or process derived by the CCP</p> <p>22 was overturned?</p> <p>23 MR. MEZA By whom? Object to the</p> <p>24 form.</p> <p>25 A. By whom?</p>	Page 39	<p>1 Commission ever reviewed a resolution or a</p> <p>2 process established by the CCP?</p> <p>3 A Yes, they have reviewed and approved --</p> <p>4 reviewed extensively and approved the</p> <p>5 change control process itself, which was</p> <p>6 established through a collaborative effort</p> <p>7 of the CLPs in the region, actually. It's</p> <p>8 a regional process But it was -- it was</p> <p>9 developed by the CLPs and BellSouth and</p> <p>10 reviewed and approved by all nine of the</p> <p>11 regulatory bodies in BellSouth's region,</p> <p>12 including North Carolina.</p> <p>13 Q Do you have a position as to whether the</p> <p>14 North Carolina Utilities Commission could</p> <p>15 require you to change a resolution or a</p> <p>16 process established in the CCP?</p> <p>17 A. I have a belief that they could, yes.</p> <p>18 Q. Has the CCP approved a form of a letter of</p> <p>19 authorization that would be used outside</p> <p>20 the shared loop context?</p> <p>21 A. I'm not aware of one. It has not been an</p> <p>22 issue before. An LOA is required and, as</p> <p>23 I said, this is the first time it has come</p> <p>24 up.</p> <p>25 Q. The CCP never dealt with the LOA issue</p>	Page 41

<p style="text-align: right;">Page 42</p> <p>1 outside the shared loop context?</p> <p>2 A When they implemented -- When they</p> <p>3 approved and BellSouth implemented that</p> <p>4 feature, for which you have a document,</p> <p>5 that was -- that was it, as far as I'm</p> <p>6 aware, of any dealings with establishing</p> <p>7 the LOA process</p> <p>8 Q And is it your position that the CLPs that</p> <p>9 participate in CCP have the right to</p> <p>10 object to changes to the CCP that they</p> <p>11 don't approve?</p> <p>12 A Oh, very much. If -- If a change request</p> <p>13 is submitted, it can be voted on or voted</p> <p>14 against in terms of how its prioritized</p> <p>15 and whether or not it's ever going to get</p> <p>16 implemented using the capacity that's</p> <p>17 available for changes on behalf of the</p> <p>18 CLPs on an annual basis</p> <p>19 Q Do you have any reason to believe that the</p> <p>20 CCP participants would not object if a</p> <p>21 fellow CLP used an LOA outside the shared</p> <p>22 loop context?</p> <p>23 MR MEZA Object to the form.</p> <p>24 A Yeah, please restructure that. I think I</p> <p>25 know where you're going, but I want to</p>	<p style="text-align: right;">Page 44</p> <p>1 Q You participated in the responses to</p> <p>2 discovery regarding your issues, you've</p> <p>3 testified?</p> <p>4 A Yes.</p> <p>5 Q Have you seen this document before?</p> <p>6 A Yes, I've seen it.</p> <p>7 Q Can you turn to Exhibit SF-3 in your</p> <p>8 testimony, please?</p> <p>9 A Okay. What page in SF-3?</p> <p>10 Q SF-2. I apologize.</p> <p>11 A Okay. And which page?</p> <p>12 Q Just the front page.</p> <p>13 A Okay.</p> <p>14 Q Do you have any understanding as to why</p> <p>15 these documents, if you look at the date</p> <p>16 of issue, vary?</p> <p>17 A Well, they're not the same document.</p> <p>18 They're not for the same activity.</p> <p>19 Q So do these documents come out</p> <p>20 periodically regarding different subjects?</p> <p>21 A Well, I would say that the subject -- the</p> <p>22 subject is similar. It might even be the</p> <p>23 same, but notice that the second one, the</p> <p>24 one you've just given me, says</p> <p>25 enhancements, the user requirements for an</p>
<p style="text-align: right;">Page 43</p> <p>1 make sure</p> <p>2 Q Do you have any reason to believe that the</p> <p>3 following will not happen, that a CLP</p> <p>4 tries to get an LOA for a purpose outside</p> <p>5 the shared loop context and a CLP that was</p> <p>6 in the CCP all along would object?</p> <p>7 A I think that's -- that would be</p> <p>8 speculative on my part, and I would say</p> <p>9 that anything could happen. That's</p> <p>10 the -- The CLPs could or could not</p> <p>11 Q But you don't know whether they would for</p> <p>12 sure or not?</p> <p>13 A Oh, absolutely not. I would never begin</p> <p>14 to speculate on what might take place</p> <p>15 Q All right. I'm handing you what's been</p> <p>16 marked as Exhibit 3</p> <p>17 (DEPOSITION EXHIBIT NO 3 WAS MARKED)</p> <p>18 Q And if you see on the front page, it</p> <p>19 indicates this is a response provided by</p> <p>20 BellSouth to Joint Petitioners in this</p> <p>21 case</p> <p>22 A Uh-huh. This is also private and</p> <p>23 proprietary</p> <p>24 Q It's been so marked, yes</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 45</p> <p>1 enhancement. This was the user</p> <p>2 requirements for the actual</p> <p>3 mechanization. This was original -- and</p> <p>4 this may very well be an enhancement to</p> <p>5 the original</p> <p>6 Q Do you know how often the enhancements to</p> <p>7 manuals such as this would occur in</p> <p>8 BellSouth?</p> <p>9 A I don't believe that there's any set</p> <p>10 regularity to it. I can tell you that the</p> <p>11 things that put these in motion could be a</p> <p>12 change request that's approved by the CCP</p> <p>13 or even -- even a ruling by a commission</p> <p>14 that is requiring us to make some sort of</p> <p>15 a change in a process or if we change</p> <p>16 technology. If something is an</p> <p>17 improvement and we have a better way to do</p> <p>18 something, we will issue the request for</p> <p>19 the enhancement.</p> <p>20 Q How would the -- How would CLPs be made</p> <p>21 aware of an enhancement to a system like</p> <p>22 this?</p> <p>23 A Through the CCP. They would be given --</p> <p>24 Again, there are fairly extensive rules</p> <p>25 about time frames in advance of making</p>

<p style="text-align: right;">Page 46</p> <p>1 changes so that the CLPs can react and be 2 ready for the change when it occurs. We 3 have to give them a certain amount of 4 time, depending on what it is we're 5 doing. They're very well laid out in the 6 CCP document. 7 Q. Are there CLPs that operate in North 8 Carolina that do not participate in the 9 CCP? 10 A. Absolutely. 11 Q. How would they be apprised of these 12 changes? 13 A. They'd be available on our interconnection 14 website. Whether they participate in the 15 CCP, they still have access to 16 documentation and the CCP website, for 17 that matter, certain portions of it. 18 Certain portions of the CCP website are 19 user/password protected for members -- 20 declared members of the CCP. But 21 everybody can be a member. There's no -- 22 There's no prohibition to a CLP not being 23 a member. If they choose to, great. If 24 they choose not to, you can't force them. 25 Q. Do you have any basis to know why a CLP</p>	<p style="text-align: right;">Page 48</p> <p>1 A. I won't characterize it as being unable to 2 participate. They've just made the choice 3 not to. Everybody -- In my opinion, 4 everybody's able to. It's there for them. 5 Q. Is there any set deadline for a CLP to 6 provide its consent be it the LOA process 7 to another CLP? 8 A. If I recall correctly, in that -- one of 9 my exhibits -- if you don't mind me 10 taking a look. I think the guidelines for 11 the LOA, Exhibit 1, probably get into -- 12 I don't know if they specify a time frame 13 that you're asking about, but they do 14 provide the process itself. 15 Q. Do you see a time frame in that exhibit? 16 A. No, I don't. 17 Q. Do you see a time frame in Exhibit 3? 18 A. No, I do not. 19 Q. Have you ever participated in one CLP 20 acquiring an LOA for another CLP? 21 A. No, I have not. 22 Q. Has BellSouth ever obtained an LOA from a 23 CLP? 24 A. I'm not sure I understand what you mean by 25 that question.</p>
<p style="text-align: right;">Page 47</p> <p>1 would choose not to participate? 2 MR. MEZA: Object to the form. 3 A. I would say that a CLP's decision to 4 participate or not participate would be 5 based on their market, how extensive a 6 base they have, are they just in one 7 state, are they in multiple states, all 8 states, and a lot might have to do with 9 the degree of -- or the degree of 10 resources that they have to devote to it. 11 And, quite honestly, if they're just a 12 resale -- simple resale, there's not much 13 going on in CCP that has a lot to do with 14 very simple resale. We're -- CCP is more 15 about managing the interfaces and making 16 changes to the interfaces. A resale CLP 17 is just dealing with the same products and 18 services that our retail folks offer to 19 our end users. 20 Q. So would it be fair to say that a CLEC 21 that did not have significant resources to 22 devote in a particular market may not be 23 able to participate in the CCP? 24 A. I won't characterize -- 25 MR. MEZA: Object to the form.</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Has BellSouth ever obtained an LOA, a 2 letter of authorization, from a CLP? 3 A. That's the same question, but a CLP can 4 view loop makeup information that resides 5 in the database for its own -- the CLP's 6 own facilities and for BellSouth's 7 facilities or facility in use for 8 BellSouth customer without an LOA being 9 required. The LOA is only for when a CLP 10 wants to look at another CLP's loop makeup 11 information. 12 Q. All right. I move to strike that 13 response. It's not responsive. 14 My question was, is BellSouth -- 15 MR. MEZA: Well, I -- I oppose 16 your moving to strike anything. 17 MS. JOYCE: I asked him if 18 BellSouth has ever obtained an LOA. And 19 he gave me a response that a CLP only 20 needs an LOA to look at the facility of 21 another CLP. That's not responsive. 22 MR. MEZA: Well, I mean, that's 23 maybe your opinion, but if you don't like 24 it, ask it again. Maybe he's not 25 understanding your question, but I don't</p>

<p style="text-align: right;">Page 50</p> <p>1 know who you're asking to strike testimony 2 of 3 MS. JOYCE: It's nonresponsive 4 I'll ask the question again 5 Q Your testimony is that a CLP needs to 6 obtain an LOA from another CLP in order to 7 access information about a loop being used 8 by the second CLP? 9 A. Correct 10 Q Is there any circumstances, in your 11 opinion, under which BellSouth would need 12 to obtain an LOA to view information? 13 A For BellSouth to view information of a 14 CLP? 15 Q For any -- We can start with a CLP. 16 A No, I can't think of any -- any 17 circumstance that would require that 18 That would be on the wholesale side if it 19 was a.. 20 Q Now, I believe your response regarded 21 BellSouth on the wholesale side? 22 A. Yes. 23 Q What did that -- What did you mean by 24 that? 25 A Well, that's all that I'm familiar with.</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Could we? Could BellSouth -- 2 Q Do you have the ability? 3 A Oh, yes Yes, we have the ability. 4 Q To your knowledge, does BellSouth view 5 that information? 6 A. Of a loop that's being used by a CLP, is 7 that what you're asking me, if BellSouth 8 does view that information? 9 Q Do you know whether BellSouth ever views 10 information about a loop that's in use by 11 a CLP? 12 A. They do if maintenance and repair is 13 involved, yes. 14 Q. And which personnel would be able to view 15 it? 16 A The folks in the maintenance and repair 17 organization that receive a trouble ticket 18 on a particular loop might have the need 19 to take a look at that information. 20 BellSouth owns the facility, and 21 BellSouth owns -- has the information in 22 the database. And if we're going to fix 23 it, we need to know about it, need to know 24 a little bit about it, so -- 25 Q. Which database is the information housed</p>
<p style="text-align: right;">Page 51</p> <p>1 Q You're not aware of any obligations to 2 obtain LOAs that are imposed on the retail 3 side of BellSouth? 4 A. I would -- I can't -- I can't speak to 5 that, no. 6 Q Is it your testimony that BellSouth does 7 not control a loop that is in use by a 8 CLP? 9 A. That is not my opinion 10 Q. All right. Please turn to your testimony, 11 which is marked as Exhibit 2, page 6. 12 A. Okay I'm there 13 Q And at line 5, you testified regarding 14 third party loop information What did 15 you mean by that term? 16 A When one -- When one CLP is accessing 17 loop makeup information to look at its own 18 or BellSouth end user facilities, that's 19 the basic intent of the service. If one 20 CLP is looking at another CLP's, I have 21 termed that third party There's a third 22 party involved in the relationship now 23 It's CLP A looking at CLP B information 24 Q Could BellSouth view that information on 25 the wholesale side?</p>	<p style="text-align: right;">Page 53</p> <p>1 in? 2 A LFACS. 3 Q. Would any other BellSouth personnel, other 4 than those that are involved in 5 maintenance and repair, have the ability 6 to view information about a loop used by a 7 CLP? 8 A. They would have the ability. They're not 9 supposed to do so. 10 Q. And why not? 11 A. Because they don't have any need to do so, 12 and we have some pretty stringent rules 13 within our company about accessing 14 information that you don't have a need to 15 access 16 Q Is it your position that BellSouth should 17 get an LOA before it views that 18 information? 19 A. Not for maintenance and repair, it 20 wouldn't be. And I don't have an opinion 21 about whether -- whether they should 22 otherwise But that's part of the 23 maintenance and repair process It's part 24 of the operational understanding that the 25 CLPs at BellSouth work under as far as</p>

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1 maintenance and repair issues are
2 concerned
3 Q Do BellSouth personnel in the -- that
4 deal with end user customers have access
5 to LFACS?
6 A. I'm sorry, please repeat that
7 Q Do BellSouth personnel that deal with end
8 user customers have access to LFACS?
9 MR. MEZA: Object to the form
10 A If you're asking about retail side of the
11 business, LFACS is a corporate database
12 that BellSouth retail uses to find out
13 information about BellSouth's own
14 facilities. The wholesale people use it,
15 as I mentioned, to -- in the maintenance
16 and repair of CLP facilities.
17 Q At page 9 of your testimony --
18 A Yes.
19 Q -- lines 19 to 20, you make the statement,
20 absolve BellSouth of any liability. What
21 do you mean by that statement?
22 A Well, given that the CLPs had asked us to
23 implement the requirement for the LOA and
24 given that BellSouth did that through the
25 CCP at their request, we are -- we are

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1 charged with the responsibility of making
2 sure that the LOA is present. If a CLP
3 looks at another CLP's loop makeup
4 information and we don't have an LOA and
5 we let -- and we don't do anything about
6 that, then we have a liability there.
7 But if the CLPs, through the CCP,
8 all agree that we should change this
9 process and, in effect, turn the
10 requirement off, then we have no
11 liability. We're not responsible for
12 requiring an LOA any longer because the
13 CLPs have said, let's change the process
14 Q. What kind of liability are you referring
15 to?
16 A. Well, just -- just at a high level, you
17 know, we require an LOA, and if we don't
18 enforce that requirement, then we're
19 subject to complaints by the CLPs who are
20 wronged and we'll be down here in front of
21 the commission in this state and eight
22 others. So that's -- that's at a high
23 level. I'm not speaking as a lawyer. I'm
24 just speaking as a person that says, if we
25 don't do something we're supposed to do,

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1 somebody's going to complain about it and
2 we could be found liable and we could have
3 fines, we could have privileges taken
4 away, whatever. That's my -- That's my
5 layman's view of it.
6 Q. Do you have any support or can you tell me
7 how you derived that understanding?
8 A. I have -- Yes, I can. I have seen us
9 taken to task over activities through the
10 CCP on numerous occasions, and we -- we
11 have to go defend that whenever someone
12 feels that we haven't upheld the
13 responsibilities that we've taken on
14 through the CCP and the things that we're
15 responsible for administering through the
16 CCP.
17 Q. Defend it where?
18 A. Commission. In front of the commissions,
19 in front of the FCC.
20 Q. Have you been involved in such a defense?
21 A. I have.
22 Q. For -- Can you recall what the subject
23 matter of the complaint was?
24 A. I can recall as far back as the 2000
25 arbitration with AT&T and all through the

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1 271 proceedings at both the state and
2 federal level, that there were issues
3 related to the process itself and how it
4 was set up and also some of the -- some
5 of the things that the CLPs alleged that
6 BellSouth was doing that were not
7 responsive to the CLP's request through
8 the CCP.
9 The specific -- You asked for a
10 specific. The specific was the process
11 itself, whether or not we were following
12 the process.
13 Q. The process of changing a procedure?
14 A. That's part of the process. There is a
15 process for changing a process, and, yes,
16 there was some discussion about that
17 specifically and there were discussions
18 about other aspects of the intervals of
19 the change control process, how long it
20 took to do certain things.
21 Q. Has there ever been a complaint lodged
22 because of an action that was taken by a
23 CLP that had been approved in an
24 arbitration?
25 A. None that I'm aware of.

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 Q On page 9, lines 13 and 14, I believe 2 you're quoting from something from CCP? 3 A. Yes 4 Q. And you quote this requirement, that the 5 proper authorization defined as end user 6 authorization that complies with 7 applicable state and federal law Do you 8 know what that applicable state and 9 federal law is? 10 A If you go back to line 4 in that same 11 paragraph, you'll see the discussion about 12 CP&I. and that's what the CLPs were 13 getting at -- getting at for this 14 particular change request. This really 15 has to do with using an LOA for viewing 16 CSR information, which has some CP&I 17 attributes to it 18 So when they were trying to get it 19 to where all the CLPs agree that everybody 20 could see everybody's CSRs of all 21 different kinds of products and services, 22 they simply asked that the requirement for 23 the proper authorization or the existing 24 LOA process for CSR, customer service 25 record information, they're just simply</p>	<p style="text-align: right;">Page 60</p> <p>1 this line of questioning on the grounds 2 that in light of the vacatur going into 3 effect on June 16th, it's BellSouth's 4 position that any -- this issue is moot 5 It's no longer at issue in the 6 arbitration. I'm not going to instruct 7 him not to be answer any questions, but I 8 would like the courtesy of having a 9 standing objection to any line of 10 questioning on dark fiber transport If 11 not, I'll just object every time you ask a 12 question. 13 MS. JOYCE Have you notified 14 Joint Petitioners' counsel of your 15 position regarding this matter before this 16 deposition? 17 MR MEZA Yeah. Do we have an 18 agreement on a standing objection or not? 19 MS. JOYCE: You can lodge it. 20 It's your right 21 MR MEZA All right 22 Q. Mr. Ferguson, do you have an answer to my 23 question? 24 A Please repeat the question, would you? 25 Q. Do you know what method BellSouth uses to</p>
<p style="text-align: right;">Page 59</p> <p>1 asking that that remain in effect as part 2 of -- as part of this agreement that 3 they're trying to work out among 4 themselves within the CCP. 5 Q. What is the nature of customer proprietary 6 network information requirements? Where 7 do those derive from? 8 A. Those are in the -- what's that -- the 9 CFR -- I don't recall the exact code of 10 federal regulations. It's all defined in 11 there, what CP&I requirements are. 12 Q Have you reviewed those rules? 13 A. Yes, I've read over them, yes We're not 14 dealing with a CP&I issue as far as the 15 LOA for the -- regarding CLP A looking at 16 CLP B's That's not a CP&I issue It is 17 an issue when customer service records are 18 involved because of the nature of the 19 information on those records. 20 Q All right, Mr Ferguson -- 21 A Uh-huh 22 Q. -- do you know the methods by which 23 BellSouth would access dark fiber 24 transport to test it? 25 MR. MEZA: I'm going to object to</p>	<p style="text-align: right;">Page 61</p> <p>1 access dark fiber to test it? 2 A. When BellSouth installs dark fiber, 3 there's just the transport facility 4 itself. There's no equipment on the 5 facility per se. And it's an open-ended 6 facility and BellSouth is able to test the 7 open facility. 8 Otherwise, after it's been 9 installed, then BellSouth -- to the best 10 of my understanding, BellSouth is going to 11 have to either remove its own equipment, 12 if there is such, or ask the CLP to remove 13 its equipment in order to be able to test 14 the fiber. And that's why we have said 15 that we would give the CLP access at those 16 end points, because that's where their 17 equipment is, at their collocation space, 18 and that's where they can easily test the 19 facility 20 Q. After dark fiber is installed? 21 A. Yes, and after it's turned up and accepted 22 by the CLP, then there's really -- on that 23 particular piece of dark fiber that's now 24 under the use by a CLP, there's really 25 not -- it's going to involve removing</p>

<p style="text-align: right;">Page 62</p> <p>1 equipment that's owned by the CLP</p> <p>2 Q Who would bear the burden of removing that</p> <p>3 equipment?</p> <p>4 A The CLP</p> <p>5 Q Can there ever be a trouble on a dark</p> <p>6 fiber transport?</p> <p>7 A Yes, there can</p> <p>8 Q How would that be detected?</p> <p>9 A Well, typically it would be detected by</p> <p>10 the CLP with some sort of indicator of</p> <p>11 degradation of service.</p> <p>12 And I understand now -- I read</p> <p>13 the testimony that was filed by the Joint</p> <p>14 Petitioners in South Carolina the other</p> <p>15 day, and I'm beginning to understand a</p> <p>16 little bit better about what the CLP's</p> <p>17 issue is, and I'd like to address that as</p> <p>18 part of this answer</p> <p>19 We give the CLP a piece of dark</p> <p>20 fiber transport The CLP installs the</p> <p>21 multiplexor equipment, the Codex, whatever</p> <p>22 they're putting on the ends of the fiber</p> <p>23 But before that's done, when BellSouth is</p> <p>24 testing that facility, we provide -- at</p> <p>25 turn up and at acceptance by the CLP, we</p>	<p style="text-align: right;">Page 64</p> <p>1 I reviewed the other day, that -- the</p> <p>2 issue of whether or not we'll be</p> <p>3 responsible for testing, maintaining, and</p> <p>4 fixing any problems may not be the issue</p> <p>5 that we originally thought it was or where</p> <p>6 the CLPs can actually access it may not be</p> <p>7 the issue, but it may be, how do you</p> <p>8 know? How do you know whether you got a</p> <p>9 problem or not?</p> <p>10 And I think by understanding what</p> <p>11 the -- what the level of service that we</p> <p>12 are giving you from the very beginning is</p> <p>13 known, then any deviation from that -- if</p> <p>14 it gets better, well, good for you; if it</p> <p>15 gets worse, then -- then you turn in a</p> <p>16 trouble ticket.</p> <p>17 Q What's the source of the figure minus 22</p> <p>18 DB?</p> <p>19 A Well, the source is -- that's the</p> <p>20 basic -- my understanding is that is the</p> <p>21 basic target parameter that our fiber is</p> <p>22 engineered for in our network and for use</p> <p>23 by dark fiber transport -- or use for dark</p> <p>24 fiber transport.</p> <p>25 Q. Is that target derived from technical</p>
<p style="text-align: right;">Page 63</p> <p>1 provide what we call the lost budget on</p> <p>2 that piece of facility And typically the</p> <p>3 lost budget is designed -- it's a</p> <p>4 number. It's a loss that is acceptable on</p> <p>5 the facility, and we provide that</p> <p>6 information I can give you a number of</p> <p>7 minus 22 DB loss as being a general target</p> <p>8 for the bulk of the transport facilities.</p> <p>9 And if there's an indication that</p> <p>10 there is some sort of trouble on the dark</p> <p>11 fiber facility after it's been turned up,</p> <p>12 accepted, and the CLPs have installed</p> <p>13 their equipment on the end of it, we tell</p> <p>14 them we have committed to a minus 22 DB</p> <p>15 loss If it's worse than that, then turn</p> <p>16 in a trouble ticket and we'll fix it.</p> <p>17 We'll troubleshoot it and determine what</p> <p>18 the cause is. If it's minus 22 or better,</p> <p>19 then we will suggest that the problem is</p> <p>20 probably not in the fiber, it's probably</p> <p>21 in the equipment somewhere</p> <p>22 But that's the kind of</p> <p>23 information, it seems to me, that the CLPs</p> <p>24 -- the Joint Petitioners are looking for</p> <p>25 based on some of the most recent testimony</p>	<p style="text-align: right;">Page 65</p> <p>1 pieces that are provided by some, you</p> <p>2 know, established, you know, consortium of</p> <p>3 engineers?</p> <p>4 A. My understanding is that that is a</p> <p>5 relative industry standard, and we</p> <p>6 engineer accordingly. And that</p> <p>7 information is provided at turn up and</p> <p>8 turnover to the CLP</p> <p>9 Q. How would a CLP know that its dark fiber</p> <p>10 had deviated from the minus 22 DB loss</p> <p>11 standard?</p> <p>12 A. Through their testing.</p> <p>13 Q And so now that you have this</p> <p>14 understanding about what you think the</p> <p>15 Joint Petitioners want, having read the</p> <p>16 South Carolina testimony, this minus 22 DB</p> <p>17 loss standard, would that apply to all</p> <p>18 dark fiber that BellSouth provides to the</p> <p>19 Joint Petitioners?</p> <p>20 A I won't say that it -- it would be for</p> <p>21 all I don't know that information.</p> <p>22 Q. Which dark fiber would it apply to?</p> <p>23 A Well, what we're talking about here is</p> <p>24 dark fiber transport, but whether or not</p> <p>25 in all circumstances the minus 22 DB is</p>

<p>Page 66</p> <p>1 the standard, I can't answer that. 2 Q Do you know who could answer that? 3 A Mr Milner could probably answer that for 4 you 5 (RECESS) 6 BY MS. JOYCE 7 Q Mr. Ferguson, you understand you're still 8 under oath? 9 A I do. 10 Q. Can you turn to Exhibit 2, which is your 11 testimony, page 13? 12 A. Exhibit 2? 13 Q. No, I -- what I have marked as 2. Not 14 your Exhibit 2, my Exhibit 2. Page 13 -- 15 A. Page 13. 16 Q -- of your testimony. 17 A Okay All right 18 Q And you state at the top of the page 19 beginning at line 3, that to allow such 20 access would render BellSouth incapable of 21 maintaining its own facilities. What do 22 you mean by that statement? 23 A. Well, if you view it the way I did, that 24 the Joint Petitioners wanted to have, you 25 know, access at any point on that circuit,</p>	<p>Page 68</p> <p>1 BellSouth facilities? 2 A No I was missing the word member there. 3 No, I'm not 4 Q How did you derive your understanding 5 about the fact that BellSouth would be 6 capable of maintaining its facilities? 7 A. Well, my reference to our ability to 8 maintain the facilities, if someone were 9 to be in there and rearrange the 10 facilities to the point where our records 11 were no longer correct, it would be very 12 difficult to manage the network with bad 13 records And talked with several members 14 of the network staff and Mr. Milner to 15 formulate some of that. 16 Q Why would the records be bad? 17 A. Well, as I said, if someone goes -- all 18 our facilities that we own are out there 19 and we think we have good records as to 20 where those facilities are, how they're 21 designed, how they're terminated, where 22 they're terminated. And if someone were 23 to alter that, our records would no longer 24 be correct. And if we were to get a 25 trouble report on a facility that had been</p>
<p>Page 67</p> <p>1 that would include our splice cases, 2 manholes I mean, that's just the way it 3 sounded to me. It sounded very broad as 4 far as what they wanted as access 5 And we're just saying that if you 6 give -- if you give anybody that kind of 7 access in our network -- I mean, that 8 equals what we have in our own network, 9 and that's just too many hands in the 10 network and liable to cause -- cause 11 problems for not only BellSouth's end 12 users but other CLP's end users and the 13 CLP that's trying to do the work 14 Q. Are you a member of BellSouth's technical 15 personnel that deals with the maintenance 16 and repair of facilities? 17 A. I'm sorry? 18 Q Are you a member of BellSouth's technical 19 personnel -- 20 A Oh, no. 21 Q -- such that you would -- 22 A No. 23 Q Let me finish for the record 24 A Okay 25 Q. -- Such that you would maintain and repair</p>	<p>Page 69</p> <p>1 rearranged unknown to us, we would try to 2 troubleshoot a problem using faulty 3 information through no fault of our own. 4 That information would have been rendered 5 full of fault by someone else and we were 6 not notified or not a party to it. 7 Q. To your knowledge, do BellSouth technical 8 personnel collaborate with CLP technical 9 personnel to, for example, resolve a 10 repair and maintenance issue? 11 A. Yes, they do, all the time. 12 Q. Do you know whether that type of 13 collaboration occurs with respect to 14 facility testing? 15 A. It certainly should at the time that we're 16 implementing a facility and turning it 17 over to the CLP. And subsequent 18 troubleshooting efforts certainly would -- 19 could involve -- should involve We're 20 concerned with the ones that don't involve 21 both parties. 22 Q. At page 14 of your testimony, lines 7 to 23 8, you state that the circuit court of 24 appeals has vacated and remanded the 25 entire dark fiber issue to the FCC As a</p>

<p style="text-align: right;">Page 70</p> <p>1 nonlawyer, what do you mean by that 2 statement? 3 A Well, first of all, I'd like to say that 4 on line 7, where it says, although 5 currently stayed, that no longer applies. 6 And as far as what vacated and remanded 7 means, we know that the DC Court of 8 Appeals has -- I believe I quoted it down 9 there in that footnote -- that said we 10 vacate the impairment findings with 11 respect to DS-1, DS-3, and dark fiber and 12 remand to the Commission to implement a 13 lawful scheme. And that's what it's based 14 on, is what the DC Circuit Court said, 15 that they basically have ruled it's no 16 longer a UNE. Dark fiber is no longer one 17 of the UNEs that we're obligated to 18 provide under Section 251 19 Q Do you know if there are any rules in 20 place today that govern the BellSouth 21 obligation to provide dark fiber testing 22 access? 23 MR. MEZA: Object to form. 24 A What I can tell you is I'm aware that 25 there will be some rules -- additional</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Do you know whether the FCC's rules that 2 regard the provision of LMU to CLPs are 3 still in effect? 4 A. The requirement came out in a '99 re-UNE 5 remand order, and far as I'm aware, 6 they're still in effect. 7 Q Now, does BellSouth, with regard to its 8 OSS, periodically improve or upgrade OSS 9 on a going-forward basis? 10 A We certainly believe we do, yes 11 Q And do you know when BellSouth was granted 12 the permission to carry interLAT of 13 traffic in North Carolina by the FCC? 14 A I believe it was in September of 2002 in 15 the five -- are you talking about when 16 the FCC granted the approval or when the 17 North Carolina Commission approved us? 18 Q. I think FCC was in my question. 19 A Okay, FCC That was September 18th, 2002, 20 when the five -- five state decision by 21 the FCC 22 Q. Has BellSouth improved or upgraded its OSS 23 since 2002? 24 A Yes 25 Q. And it continues to do so?</p>
<p style="text-align: right;">Page 71</p> <p>1 rules put into place or new rules or 2 interim rules. There's a lot of activity 3 on the rule-making process regarding what 4 has been recently vacated And I 5 won't -- I really can't speak too much 6 beyond that. 7 Q And do you wish to amend your testimony as 8 it was filed to remove that clause, 9 although currently stayed? 10 A Well, it's my understanding that we will 11 be amending our testimony in both Alabama 12 and North Carolina that was filed prior to 13 the -- to the final decisions 14 Q Do you know when that would occur? Do you 15 know when that would occur? 16 A When -- The amending of the testimony? 17 Q Yes 18 A No, I don't exactly I'd have to consult 19 with my attorneys 20 Q. Are you doing the amendments yourself? 21 A I will, yes. 22 Q Will it be under the supervision of 23 attorneys? 24 A They will review what I write, and then we 25 will go from there.</p>	<p style="text-align: right;">Page 73</p> <p>1 A Yes. 2 Q. Do you know what the steps -- what steps 3 must be taken by a CLP to place an 4 electronic order with BellSouth? 5 A Yes, generally, I do. 6 Q What are they? 7 A. They have to fill out a local service 8 request correctly and process it through 9 either a manual or electronic process to 10 get it to BellSouth so that we can take 11 the information that's on the LSR and 12 convert it to one of our network service 13 orders to get it implemented. 14 And that's pretty high level, but 15 that's pretty much how simple it is, is -- 16 a complete and correct LSR is required 17 from the CLPs, then we'll take care of the 18 rest of it 19 Q. Would the ENCORE suite of applications 20 that we discussed earlier be used by the 21 CLP for that purpose? 22 A The interfaces are the front end to the 23 ENCORE or really part of the ENCORE suite, 24 and then the conversion that's done in the 25 interim step between the interfaces where</p>

<p>Page 74</p> <p>1 they input the orders and the conversion 2 process that takes place to take 3 information off of the LSR, massage the 4 information to get it to a point where our 5 service order communication system or 6 SOCS, S-O-C-S, can interpret the 7 information and turn it into a service 8 order just like the service orders that 9 are used in our retail operations 10 Q Are those orders treated the same as the 11 orders in BellSouth's retail operations? 12 A. Absolutely 13 Q. What steps are required for a CLP to place 14 an order manually? 15 A. Again, fill out the proper LSR forms, 16 local service request forms. Dependent 17 upon whatever type of product or service 18 they're ordering, there are different 19 pages required. Fill out an LSR 20 completely, accurately, and fax it to the 21 local carrier service center, LCSC 22 Q. What does the LCSC do with that fax? 23 A. They take the information and, using a 24 terminal, take the information off of the 25 manual or the paper copy that they've</p>	<p>Page 76</p> <p>1 Q Lines 15 and 16. 2 A. Yes. 3 Q And I believe this is a quote from an 4 order of the FCC. And there's a footnote 5 provided at the bottom of the page, 6 Georgia/Louisiana 271 FCC order. 7 A. Yes. 8 Q Let me show you what's been marked as 9 Exhibit 4. 10 (DEPOSITION EXHIBIT NO. 4 WAS MARKED.) 11 Q Is this the order referenced in that 12 footnote? 13 A. Yes, it is. 14 Q. All right. I believe we've provided you 15 with the portion cited in that footnote. 16 Paragraph 149 is in this exhibit? 17 A. Yes. 18 Q Now, in your testimony, the statement in 19 your testimony -- 20 A. Uh-huh. 21 Q -- says that BellSouth properly designed 22 its systems so that a minimal number of 23 orders [products] cannot be ordered 24 electronically. 25 And then if we refer to the</p>
<p>Page 75</p> <p>1 received by fax and input it into a system 2 that then creates the service order. 3 Q How do they input it? 4 A. Using a terminal. 5 Q They type it into -- 6 A. They type it in, yes. 7 Q Into which database? 8 A. I guess -- I guess no database. 9 Basically, the input is converted into the 10 proper format that creates the service 11 order in our service order communication 12 system, SOCS. So it's creating the 13 manual -- it's creating manually what the 14 electronic LSR creates electronically. 15 We're having to do that manually because 16 it's coming in manually and we have to 17 retype it. 18 Whereas an electronic order flows 19 in, gets converted automatically to the 20 language that our service order -- our 21 SOCS system needs to see, and then there's 22 a service order. 23 Q All right. Can you please look at page 16 24 of your testimony? 25 A. All right.</p>	<p>Page 77</p> <p>1 exhibit, paragraph 149, it states in the 2 second sentence, rather we find, as did 3 the Georgia and Louisiana Commissions, 4 that BellSouth properly designs its system 5 so that a minimum number of orders cannot 6 be ordered electronically. Do you see 7 there's a difference between those two 8 statements that I've read? 9 A. Yes, I do. 10 Q Did you add the word products in the 11 brackets into this quote? 12 A. I did. 13 Q And why did you add it? 14 A. Because what they wrote doesn't make 15 sense. You don't order orders, and that's 16 what they've said. And I was trying to 17 clarify that what you order are 18 products -- really products and services, 19 what I should have added in there. But I 20 put the brackets in to indicate that -- 21 possibly I did it wrong, but I was trying 22 to indicate that that's not what they 23 said, that's what I say. 24 Q. It's your characterization of what the FCC 25 said?</p>

<p style="text-align: right;">Page 78</p> <p>1 A. Yes, that is mine</p> <p>2 Q Why did you choose to put that</p> <p>3 characterization in quotes?</p> <p>4 MR MEZA: Actually, it's in</p> <p>5 brackets You said quotes.</p> <p>6 A Are you talking about the word products,</p> <p>7 why did I put that in --</p> <p>8 Q No</p> <p>9 MS. JOYCE: Mr Meza, please don't</p> <p>10 suggest answers to your witness when</p> <p>11 there's a question pending.</p> <p>12 Q. Why did you put the statement on page 16</p> <p>13 that begins with the word BellSouth, that</p> <p>14 whole thing? You've stated that's your</p> <p>15 characterization of what the FCC said.</p> <p>16 Why is that in quotes?</p> <p>17 A. Just the one word was my characterization,</p> <p>18 and the quote, the rest of it, is what is</p> <p>19 from the order</p> <p>20 If I have indicated it</p> <p>21 incorrectly, I apologize. That's the way</p> <p>22 -- That's the way we've done it to --</p> <p>23 before, to just make a helpful hint that</p> <p>24 that does not make sense, what they've</p> <p>25 said, and what they meant My</p>	<p style="text-align: right;">Page 80</p> <p>1 there are a minimal number of products and</p> <p>2 services that BellSouth does not make</p> <p>3 electronically available. And, yes, that</p> <p>4 is my characterization of what I thought</p> <p>5 they meant or what makes sense to me.</p> <p>6 Q So your statement as characterizing what</p> <p>7 the FCC said is there's a minimal number</p> <p>8 of products and services that cannot be</p> <p>9 ordered electronically?</p> <p>10 A. That's exactly -- That's what it should</p> <p>11 have said really, products and/or</p> <p>12 services</p> <p>13 Q You did not mean to say, there are a</p> <p>14 minimum number of orders that must be</p> <p>15 placed -- strike that -- there are a</p> <p>16 minimal number of orders that cannot be</p> <p>17 placed electronically?</p> <p>18 A Absolutely not. There's a maximum number</p> <p>19 of orders that can be placed</p> <p>20 electronically in our systems</p> <p>21 Q And is that because you can have several</p> <p>22 orders regarding one of these products and</p> <p>23 services that cannot be ordered</p> <p>24 electronically?</p> <p>25 A. Well, what I'm trying to get across there</p>
<p style="text-align: right;">Page 79</p> <p>1 characterization of what they meant is</p> <p>2 products.</p> <p>3 Q. Is there a difference -- If we were to</p> <p>4 put on this table an order and a product,</p> <p>5 is there a difference between what an</p> <p>6 order looks like and what a product would</p> <p>7 look like?</p> <p>8 A. Ms. Joyce, it would be very hard to look</p> <p>9 at a product called touch tone or to look</p> <p>10 at certain things. I can look at a</p> <p>11 service order. I can look at an LSR, the</p> <p>12 actual request. It's very difficult to</p> <p>13 look at a product. You order a product or</p> <p>14 a service using a service order or, in the</p> <p>15 case of the wholesale side, an LSR. And</p> <p>16 that's how I arrived at use of the word</p> <p>17 product, because you don't order an order</p> <p>18 Q By the word "order", do you mean a single</p> <p>19 LSR recorded in some fashion?</p> <p>20 A No. If you put in the word LSR there, a</p> <p>21 minimal number of LSRs cannot be ordered</p> <p>22 electronically. You don't order LSRs</p> <p>23 You submit LSRs This is a major</p> <p>24 semantics thing, apparently. But I'm just</p> <p>25 suggesting that what they meant was that</p>	<p style="text-align: right;">Page 81</p> <p>1 is that 97 percent, roughly, of all</p> <p>2 submissions by CLPs in the region are done</p> <p>3 electronically. That suggests to me that</p> <p>4 the bulk of all of our products and</p> <p>5 services and the bulk of what the CLPs are</p> <p>6 doing is electronic and that there's very</p> <p>7 little that cannot be done</p> <p>8 electronically.</p> <p>9 And some of what is not done</p> <p>10 electronically is by the choice of the</p> <p>11 CLPs Some CLPs choose to do it manually,</p> <p>12 and we have no say-so in that, but that's</p> <p>13 a part of that remaining 3 percent that is</p> <p>14 not submitted electronically. It's manual</p> <p>15 because that's the way the CLPs choose to</p> <p>16 do it, not because it can't be done.</p> <p>17 So some percentage of the 3</p> <p>18 percent cannot be done electronically, and</p> <p>19 that's really the bottom line for this</p> <p>20 whole issue, as far as I can see it, is</p> <p>21 there is a certain number -- are a certain</p> <p>22 number of products and services that</p> <p>23 cannot be ordered electronically, and it's</p> <p>24 somewhere between 0 and 3 percent.</p> <p>25 Q. Which products and services cannot be</p>

<p style="text-align: right;">Page 82</p> <p>1 ordered electronically?</p> <p>2 A I provided in my testimony, I believe it's</p> <p>3 Exhibit SF-6, the flow-through matrix from</p> <p>4 the PMAP, performance measurement and --</p> <p>5 I can't -- I'm sorry, I can't remember</p> <p>6 what -- right off the top of my head,</p> <p>7 but --</p> <p>8 Q. Assurance plan?</p> <p>9 A Yeah, something like that But I've</p> <p>10 provided the flow-through matrix from that</p> <p>11 website, and you can determine through</p> <p>12 this six pages, five and a half, whatever</p> <p>13 it is pages of products and services that</p> <p>14 are available either as resale or UNE to</p> <p>15 the CLPs to order. It can tell you what</p> <p>16 is, is not electronic, what does and does</p> <p>17 not flow through. So that's available.</p> <p>18 Q Now, on this matrix you've provided us,</p> <p>19 there's a column in the middle that's</p> <p>20 designated F/T And I think that there's</p> <p>21 a footnote referenced Does F/T stand for</p> <p>22 flow through?</p> <p>23 A. Yes, it does</p> <p>24 Q. And there's another column that's labeled</p> <p>25 complex order. What does that mean?</p>	<p style="text-align: right;">Page 84</p> <p>1 mechanized simply because it can't be.</p> <p>2 And from another standpoint, if you're</p> <p>3 taking a look at the flow-through numbers</p> <p>4 that we're required to make, complex</p> <p>5 orders can be properly excluded from the</p> <p>6 flow-through calculation because of the</p> <p>7 inherent inability to mechanize them</p> <p>8 Q The letter from Larry Strickling that you</p> <p>9 just referenced that was written in</p> <p>10 1999 --</p> <p>11 A Yes</p> <p>12 Q. -- has the FCC opined since then regarding</p> <p>13 which orders are complex with regard to</p> <p>14 BellSouth?</p> <p>15 A I would say that they've opined three</p> <p>16 times in all of the different BellSouth</p> <p>17 applications for long distance. The whole</p> <p>18 issue of flow-through mechanization, very</p> <p>19 thoroughly reviewed and discussed and</p> <p>20 determined, and no changes were ever made</p> <p>21 based on -- going back to this 1999</p> <p>22 letter.</p> <p>23 And, in fact, in my testimony, I</p> <p>24 believe those are the cites -- if I</p> <p>25 recall correctly, those are the cites I</p>
<p style="text-align: right;">Page 83</p> <p>1 A A complex order is a type of order that,</p> <p>2 based on the SF -- Exhibit SF-5, that is</p> <p>3 the Strick -- so-called Strickling letter</p> <p>4 from the FCC. The FCC, as far back as</p> <p>5 1999, recognized that certain types of</p> <p>6 orders, both for BellSouth and for the</p> <p>7 CLPs, just cannot be made electronic,</p> <p>8 can't be mechanized because of the complex</p> <p>9 nature. There are certain -- There are</p> <p>10 certain value decisions that have to be</p> <p>11 made that a machine can't make A machine</p> <p>12 doesn't have all the variables. No way to</p> <p>13 input the variables to the machine So a</p> <p>14 human has to manipulate and make decisions</p> <p>15 and make inputs to these orders And for</p> <p>16 that reason, they're considered to be</p> <p>17 complex orders And it may also have to</p> <p>18 do with the sheer size of an order, the</p> <p>19 complexity and the interdependencies that</p> <p>20 it might have with other situations, other</p> <p>21 orders</p> <p>22 And so -- so typically a complex</p> <p>23 order is -- is not mechanized, cannot be</p> <p>24 ordered electronically And from one</p> <p>25 standpoint it doesn't have to be</p>	<p style="text-align: right;">Page 85</p> <p>1 gave, were referencing you to all three of</p> <p>2 our orders That talked about us being</p> <p>3 found compliant in our ordering processes,</p> <p>4 which includes the flow through, the</p> <p>5 manual processes, and -- like</p> <p>6 Georgia/Louisiana, they said in that --</p> <p>7 you know, they're still of the opinion</p> <p>8 that we don't have that many things that</p> <p>9 can't be ordered electronically.</p> <p>10 Q. Now, on page 17 of your testimony --</p> <p>11 A Uh-huh</p> <p>12 Q. -- the last line, you're discussing two</p> <p>13 reasons why electronic ordering might not</p> <p>14 be available, and the first one is low</p> <p>15 volume of CLP requests?</p> <p>16 A Yes</p> <p>17 Q Is low volume indicated anywhere in your</p> <p>18 Exhibit SF-6 in this matrix?</p> <p>19 A. If you'll allow me to take a look. No.</p> <p>20 Q. Can you think of any products and services</p> <p>21 that would be low volume?</p> <p>22 A. I can't think of any specifically, no.</p> <p>23 Q. And on page 18, at the top of the page,</p> <p>24 you state as your second reason, that</p> <p>25 order mechanization is technically</p>

<p style="text-align: right;">Page 86</p> <p>1 infeasible Why would it be technically 2 infeasible? 3 A Sort of like I was just explaining to you 4 about certain complex orders, when you -- 5 when human intervention is required or 6 human decision making is required because 7 certain aspects of a request cannot be 8 coded, it's technically infeasible to 9 mechanize something like that 10 And going back to SF-6, I believe 11 there were some -- let's see. Special 12 pricing plans would be -- sometimes when 13 there's a -- the end user that's 14 under -- that's under a contract of some 15 sort and you need to determine if that -- 16 if that -- if there's some sort of a 17 payoff, you may be paying off some but not 18 all items, a human has to deal with that. 19 You can't -- You can't make a system make 20 decisions like that It doesn't have all 21 the information available to it. 22 Q Are you referring to page 4 of the 23 exhibit -- 24 A Yes 25 Q -- Exhibit 2?</p>	<p style="text-align: right;">Page 88</p> <p>1 right in the middle A CLP can order it 2 electronically. We can't process it 3 through to a service order 4 electronically. It will fall out and then 5 becomes a manual order in the LCSC 6 Q Would that order be counted within the 97 7 percent of orders that can be submitted 8 electronically? 9 A. Yes, that would be. That is considered to 10 be an electronic order. It just is not 11 one that has flow through And the 97 12 percent that I referenced in my testimony 13 was everything but manual. 14 Q Is the CCP presently discussing issues 15 related to orders that are planned for 16 fallout from manual handling? 17 A If you'd asked me that six, eight months 18 ago, I would have said yes. Right now, I 19 can't think of anything specific that is 20 partially mechanized other than maybe some 21 of our EEL products. I know that in the 22 State of North Carolina, we file a 23 quarterly report about the -- about EELs, 24 and I think that has to do with when will 25 that be totally mechanized. I believe it</p>
<p style="text-align: right;">Page 87</p> <p>1 A Yes, I am. I'm sorry Exhibit SF-6, page 2 4 It's under note two And there's kind 3 of a list of them right there really that 4 could be considered to be technically 5 infeasible situations. 6 Q. There's a column in your Exhibit SF-6 7 that's labeled planned fallout for manual 8 handling 9 A Uh-huh 10 Q Can you explain to me what that means? 11 A Yes. In some cases, there are certain 12 products and services for which we can 13 provide a way for the CLEC to actually 14 order it electronically through EDI, LENS, 15 or TAG That's not where the problem is 16 The problem is, once it gets to the 17 systems, it can't be programmed at that 18 point to then translate that information 19 into service order compatible information 20 for our SOCS system. So this is kind of a 21 halfway point. You know, you've got 22 manual, can't be done electronically, or 23 you've got electronic submission that 24 flows all the way through and creates a 25 service order, and this plan fallout is</p>	<p style="text-align: right;">Page 89</p> <p>1 is partially now I don't file that 2 report, so I'm not firsthand 3 knowledgeable. It's kind of -- kind of 4 overheard information, but -- but anybody 5 that wants to mechanize or wants to have a 6 product or service mechanized that isn't 7 currently certainly can submit a change 8 request to the CCP. Now, chances are -- 9 chances could be that a request had 10 already been made for certain and we've 11 either done it or had to turn it down 12 because of technical infeasibility 13 Q. But if I could just interrupt you. 14 A Yes. 15 Q Do you know whether any such requests are 16 presently pending before the CCP? 17 A. I do not. 18 Q. Is BellSouth working toward an electronic 19 ability to process orders that today are 20 deemed complex? 21 A That would be on a case-by-case basis, 22 and, you know, I don't want to give a 23 global answer that, yes, we are or, no, 24 we're not, because I don't know of any 25 specifics that we might be working on</p>

<p style="text-align: right;">Page 90</p> <p>1 I can tell you this though, 2 Ms Joyce, we -- we are working -- we 3 have a flow-through improvement plan, and 4 we are continually trying to find 5 opportunities for mechanization and flow 6 through. 7 Q In the column that is labeled planned 8 fallout, what does NA stand for? 9 A. It would be nice if they had the headings 10 on all pages, wouldn't it? NA -- 11 Q. Do you see on the first line -- 12 A Yes 13 Q -- for example, two wire analog, DID trunk 14 port, NA Does that stand for not 15 applicable, not available? Do you know? 16 A. Well, it actually could stand for either 17 one If you'll notice that that is not an 18 electronically orderable product in the 19 first place. So if you can't order it at 20 all electronically, it can't be planned 21 fallout for manual handling because that 22 implies that it was electronically 23 orderable. So you will most likely find 24 NA by everything that is not orderable 25 through EDI, TAG, or LENS</p>	<p style="text-align: right;">Page 92</p> <p>1 web-based tool, and everybody, in effect, 2 has access to LENS by getting a password 3 The others require software coding on the 4 CLP's part and it requires a commitment 5 for EDI and TAG that there is CLP 6 involvement in those. We provide the 7 web-based interface LENS. And there's 8 very little for the CLP to do other than 9 to know the rules of LENS. 10 Q But any CLP that chooses to can use TAG? 11 A Absolutely. Yes. Yes. 12 Q. Can you look at page 3 of this Exhibit 13 FS-6, the last two lines of the matrix on 14 page 3. 15 A Yes 16 Q What are the differences between these two 17 entries for xDSL? Let's start by telling 18 me, what is the first entry for xDSL? 19 What type of service is that? 20 A Well, both of these are UNE xDSL 21 services I think you're going to find 22 that the difference in these is -- looking 23 under the -- well, the req types are the 24 same. Request type A and request type B, 25 they are the same. But when you get to</p>
<p style="text-align: right;">Page 91</p> <p>1 Q So what tells me on this matrix whether 2 these services outlined here can or cannot 3 be ordered electronically? 4 A Looking under the EDI, TAG, and LENS 5 categories, the -- do you see them over 6 there on the right? 7 Q. Yes 8 A That tells you whether you can -- because 9 those are our -- those are our electronic 10 systems And the Y would indicate that, 11 yes, you can, and the N would indicate 12 that, no, you can't And you can -- you 13 can see that some of them are kind of a 14 mix It's not necessarily a Y all the way 15 across the board, not every interface 16 would allow it to be electronically 17 ordered through that. 18 Q Do some CLPs still use LENS to place 19 orders? 20 A. Absolutely 21 Q Do these -- Do all CLPs have the 22 opportunity to use TAG to place orders? 23 A They make the decision as to whether or 24 not they want to set up the TAG 25 capability. LENS is very simple. It's a</p>	<p style="text-align: right;">Page 93</p> <p>1 the third column, it's just simply a 2 differentiation between different act 3 types or activity request types. 4 It doesn't really -- If you look 5 all the way to the very end, it doesn't 6 really change whether it's electronically 7 orderable or not other than act of T -- 8 act type of T, you can't do it with LENS. 9 That seems to be the only difference that 10 jumps out at me. 11 Q. Well, one of them says yes under planned 12 fallout and for the other one it says, no, 13 it's not planned -- 14 A Okay. 15 Q -- fallout 16 A All right 17 Q Why would that be? 18 A The act of T, if I recall correctly, 19 that's a move activity. And, again, in a 20 move activity, it's very likely that 21 you're going to have to have some human 22 intervention at some point to get all of 23 the information about where it's moving 24 from and moving to. 25 Q. What do you mean "move activity"?</p>

<p style="text-align: right;">Page 94</p> <p>1 A Well, the CLP has requested on behalf of 2 the end user that this service be moved to 3 another location 4 Q Their customer's physically moving? 5 A. Yes. Yes. 6 Q And -- 7 A Well -- And I'll say, it could be an end 8 move It could be an end move within the 9 same facility, you just want to change 10 where it's terminated. 11 Q. And that would be the CLP's choice to 12 change where the xDSL loop is terminated? 13 A I assume based on the request of the end 14 user more than likely, yes 15 Q Do you know why a CLP would request that 16 an xDSL loop is moved, particularly where 17 it's terminated? 18 MR MEZA Object to the form of 19 the question. 20 A I won't speculate as to why the CLP 21 would The CLP may be moving its own 22 equipment and need the -- for its own 23 purposes, but, no, there could be a number 24 of reasons. 25 Q And on page 1 of this exhibit, a few lines</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Yes. 2 Q Is that pronounced SOMAN? 3 A. Yes 4 Q. What is a SOMAN charge? 5 A. It's a manual service ordering charge 6 If -- I guess it should have been a 7 MANSO, but, you know, service order -- 8 service order manual charge, is what it 9 stands for. 10 Q. Do you know the amount of those charges? 11 A They vary by state, but, yes, I do. For 12 North Carolina, I can tell you what they 13 are 14 Q For each of these items on your SF-6, if 15 something couldn't be electronically 16 ordered, you could tell me? 17 A. No. I can give you an overview of what 18 the charges are in North Carolina, if 19 you'd like. 20 Q. Are they in a tanff? 21 A They're in the rate sheet associated with 22 the interconnection agreement. 23 Q. Do you know who set those rates? 24 A The commissions in all of the states 25 approved them.</p>
<p style="text-align: right;">Page 95</p> <p>1 down, there are two entries for 4-wire 2 analog voice grade loop. And the first 3 one says no for flow through. The second 4 one says yes for flow through. The first 5 one says yes for fallout The second one 6 says no. 7 Can you explain why these two 8 similarly named products would be treated 9 differently in BellSouth's systems? 10 A Well, I'll point you to the same column, 11 act type, and you will see, once again, 12 the -- the T, the move code, would be the 13 offending party, in my estimation. That's 14 what's causing the less capability -- 15 lesser capability. It would be the move 16 order The fact that it's move activity 17 Q The offending party in your statement 18 being an inanimate object? 19 A Yes. 20 Q On page 17 (sic) of your testimony, you 21 refer to something called an S-O-M-A-N 22 charge And this is at line 12. Do you 23 see that? 24 A I'm sorry, page? 25 Q 15.</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Do you know who set those rates? 2 A. Well, I guess the commissions did. 3 Q. Were you involved in the process by which 4 they were approved? 5 A No, I was not. 6 Q Do you -- Are you familiar with the 7 acronym TELRIC, T-E-L-R-I-C? 8 A Yes, I am, generally. 9 Q Do you know whether the SOMAN charges 10 approved by the North Carolina Commission 11 are based on TELRIC? 12 A I do not. 13 Q The exceptions that you provide here on 14 page 15 -- and we've discussed them -- 15 as to why an order could not be placed 16 electronically, are those the only two 17 types of exceptions you can think of for 18 why an order could not be placed 19 electronically? 20 A Those are the two exceptions that we apply 21 as a matter of -- as a matter of course 22 today. 23 Q Do you apply them in all nine BellSouth 24 states? 25 A. To the best of my knowledge, yes.</p>

<p>Page 98</p> <p>1 Q. Does Exhibit SF-6 apply in all nine 2 BellSouth states? 3 A Our systems are regional. Our processes 4 are regional, and we -- you know, you 5 can't order something electronically in 6 one state and not be able to do it in the 7 other states, so I would say that it 8 applies regionally 9 Q. And then on page 15, these exceptions that 10 you note, they apply -- they are 11 exceptions to when SOMAN charges would be 12 imposed; is that correct? 13 A If I understand your question correctly, 14 these are the circumstances where a manual 15 order can be submitted and the lower 16 mechanized charge will be charged by 17 BellSouth. These are the exceptions to us 18 charging the SOMAN or manual charge 19 Q And is -- your testimony is these are the 20 only exceptions? 21 A At this time 22 Q And is this true for all nine BellSouth 23 states? 24 A Again, to the best of my knowledge, it 25 certainly is, yes.</p>	<p>Page 100</p> <p>1 Joint Petitioners' testimony to remember 2 what they said. 3 Q But your point is just that BellSouth is 4 going to comply with that order? 5 A. Oh, yes, absolutely. 6 Q Can you tell me what would be the, if any, 7 time frame within which BellSouth would 8 have to implement an order that fell out, 9 as we discussed regarding Exhibit SF-6? 10 A Well, again, it depends on the product or 11 service. There are set intervals for 12 implementation of all the products and 13 services. The fact that it falls out 14 after being ordered mechanically or 15 electronically doesn't relieve BellSouth 16 of the obligation to meet certain time 17 frames to get it implemented. We still 18 have to handle it as if it's under the 19 same interval of being ordered 20 electronically. We have to move it on. 21 Q. And is there a set time frame for an order 22 that is submitted manually to be 23 provisioned? 24 A. Again, we do have intervals that we have 25 to meet, and we have -- it varies by</p>
<p>Page 99</p> <p>1 Q On page -- excuse me, on line 16 and 17 2 of this page -- 3 A. Uh-huh. Yes 4 Q. -- you referenced an MCI Metro order at 5 page 200. And apparently that appears in 6 the Joint Petitioners' testimony. What do 7 you mean by that reference? 8 A. Well, what -- if I recall correctly -- 9 and I don't have the Joint Petitioners' 10 testimony in front of me, but what I 11 recall they said in the -- in their 12 testimony alluded to the fact that we had 13 been ordered by a commission -- I don't 14 even remember which commission -- to -- 15 to apply the exception, number 1, in the 16 case where retail organization of 17 BellSouth can order something 18 electronically and the wholesale cannot. 19 So I was just saying that the fact that we 20 apply that exception addresses what they 21 said was the order that we had received in 22 the MCI Metro order. 23 Q Who issued that order, in your 24 understanding? 25 A I don't recall. I'd have to look at the</p>	<p>Page 101</p> <p>1 product or service, but we still have to 2 meet the due dates requested by the CLPs. 3 Q Are those due dates reflected in the 4 service quality management, SQM? 5 A. Service quality measurement? 6 Q. Measurement. 7 A. Yes, SQMs. Yes, they are. We have manual 8 obligations as well as electronic 9 obligations and partial mech -- partially 10 mechanized obligations. 11 MS. JOYCE: If we can take just a 12 short break, I will review my notes and I 13 think we're about finished. 14 (RECESS.) 15 MS. JOYCE: We're back on the 16 record. 17 THE WITNESS: Okay. 18 MS. JOYCE. Mr. Fogle, thank you 19 for coming in. I don't have any 20 additional questions. 21 THE WITNESS Ferguson. 22 MS JOYCE: Oh, thank you. FF, 23 sec. 24 (DISCUSSION OFF THE RECORD.) 25 MR MEZA. I have a couple of</p>

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<p>1 questions on Redirect (sic). 2 THE WITNESS Okay. 3 CROSS-EXAMINATION 4 BY MR. MEZA 5 Q. Mr. Ferguson, do you remember Ms. Joyce 6 asking you about the price -- prices or 7 the rates for the SOMAN charge? 8 A. Yes. 9 Q. And your answer regarding the Commission 10 established the rate? 11 A. Yes. 12 Q. Do you remember that line of questioning? 13 A. Yes. 14 Q. Do you know what proceedings the 15 Commission established the SOMAN charge 16 rate? 17 A. These were a part of the UNE cost dockets 18 related to -- well, I wasn't a part of 19 them, but I know they're a part of the UNE 20 cost dockets. 21 Q. Is that why it's part of the rate sheet in 22 the interconnection agreement? 23 A. Yes. 24 Q. Because it was part of -- well, does the 25 fact that it was part of the UNE docket --</p>	<p>1 I'm just clarifying -- 2 MR. MEZA: Well, sure. 3 MS. JOYCE: -- that he said that 4 the Commission -- 5 MR. MEZA: Well, you made your 6 objection. No speaking objections, 7 please, as you've reminded me several 8 times today. 9 MS. JOYCE: There's a difference 10 between a speaking objection and 11 suggesting an answer to a witness. 12 MR. MEZA: Neither of which I did. 13 Q. Mr. Ferguson, is the fact that the 14 Commission established the SOMAN charge in 15 the UNE docket give you insight as to 16 whether or not TELRIC was used to 17 establish the rate? 18 A. I believe they were related to TELRIC 19 principles for the UNE cost document. 20 MR. MEZA: Thank you. I have no 21 further questions. 22 MS. JOYCE: Mr. Ferguson, we may 23 meet again in another state, but for 24 today, I think our proceedings are 25 finished. Thank you.</p>
Page 103	Page 105
<p>1 in establishing the UNE docket give you 2 any insight as to whether TELRIC was used 3 to make the rate? 4 MS. JOYCE: I object to the 5 question to the extent that it 6 mischaracterizes the witness' testimony. 7 I believe he said that the rate was 8 approved by the Commission. 9 MR. MEZA: That's right. And I'm 10 asking him more questions about it. 11 MS. JOYCE: But your question 12 asked if it was -- when it was 13 established by the Commission. 14 MR. MEZA: Well, I don't think -- 15 first of all, my line of questioning is 16 not limited to what exactly you said. I 17 am expanding upon the line of questioning 18 that you started with. We have now 19 established that the Commission's 20 established a rate and approved the rate 21 in a UNE cost proceeding, and I'm asking 22 him a follow-up question, and I -- 23 MS. JOYCE: But I'm entitled to 24 object on the ground that you 25 mischaracterized his direct testimony.</p>	<p>1 THE WITNESS: Thank you. 2 (THE DEPOSITION CONCLUDED AT 6:27 P.M.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

CERTIFICATE

State of North Carolina
County of Harnett

I, Nicole Ball Fleming, a notary public in and for the State of North Carolina, do hereby certify that there came before me on the 28th day of June, 2004, the person hereinbefore named, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge concerning the matters in controversy in this cause, that the witness was thereupon examined under oath, the examination reduced to typewriting by myself, and the deposition is a true and accurate transcription of the testimony given by the witness

I further certify that I am not counsel for, nor in the employment of any of the parties to this action, that I am not related by blood or marriage to any of the parties, nor am I interested, either directly or indirectly, in the results of this action.

In witness whereof, I have hereto set my
hand and affixed my official notarial
seal, this the 8th day of July, 2004

Nicole Ball Fleming
Notary Public
My commission expires 4/30/05

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Page 107

Scot Ferguson

State of

County of _____

Sworn to and subscribed before me this
day of _____, 20____

Notary Public

My commission expires _____

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Deposition of SCOT FERGUSON,		14
VOLUME II		15
a witness herein, called for		16
examination by counsel for the Joint		17
Petitioners, in the above-entitled action,		18
pursuant to Notice, the witness being duly		19
sworn by Nicole Ball Fleming, Court		20
Reporter and Notary Public in and for the		21
State of North Carolina, taken at the		22
offices of Farber Fox Adams & Bernstein,		23
150 Fayetteville Street Mall, Suite 1400,		24
Raleigh, North Carolina, beginning at 9:40		25
a.m., on Tuesday, December 7, 2004, such		
proceedings being taken stenographically		
by Nicole Ball Fleming		
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1 APPEARANCES OF COUNSEL		1 STIPULATIONS
2		2 Prior to examination of the witness
3 On behalf of the Joint Petitioners		3 counsel for the parties stipulated and
4 Stephanie Joyce		4 agreed as follows
5 John J. Heilmann		5 1. Said deposition shall be taken for
6 Kelley Drye & Warren		6 the purpose of discovery or for use as
7 1200 19th Street NW		7 evidence in the above-entitled action or
8 Suite 500		8 for both purposes as permitted by the
9 Washington DC 20036		9 applicable rules of civil procedure
10		10 2. Any objections of any party hereto as
11 On behalf of BellSouth		11 to Notice of the taking of said deposition
12 Jim Meza		12 or as to the time and place thereof or as
13 Robert Culpepper		13 to the competency of the person before
14 BellSouth Legal Department		14 whom the same shall be taken are hereby
15 675 West Peachtree Street NE		15 waived
16 Suite 4300		16 3. Objection to questions and motions to
17 Atlanta GA 30375		17 strike answers need not be made during the
18		18 taking of this deposition, but may be made
19		19 for the first time during the progress of
20		20 the trial of this case or at any pretrial
21		21 hearing held before the Judge for the
22		22 purpose of ruling thereon or at any other
23		23 hearing of said case at which said
24		24 deposition might be used, except that an
25		25 objection as to the form of a question
		must be made at the time such question is
		asked or objection is waived as to the
		form of the question
		4. That all form duties and requirements
		of the Stipulation with respect to any
		formalities not herein expressly waived
		are hereby waived, especially including
		the right to move for the rejection of
		this deposition before trial for any
		irregularities in the taking of the same
		either in whole or in part or for any
		other cause
		5. That the sealed original transcript
		of this deposition shall be mailed
		first-class postage or hand delivered to
		the party taking the deposition or its
		attorney for preservation and delivery to
		the Court if and when necessary

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<p>1 SCOT FERGUSON 2 having been duly sworn. 3 testified as follows 4 CONTINUED DIRECT EXAMINATION 5 BY MS JOYCE 6 Q Good morning. Mr. Ferguson 7 A Good morning. Ms. Joyce 8 Q I'm Stephanie Joyce, and we met in June 9 MR MEZA Before we get started, 10 can we agree to the usual stipulations for 11 this deposition? 12 MS JOYCE Oh yes. I was going 13 to read them at the end, but yes 14 MR MEZA Okay 15 Q Are you the same Scot Ferguson that was 16 here in June and submitted to deposition 17 by the Joint Petitioners? 18 A Yes, ma'am 19 (DEPOSITION EXHIBIT NO. 5 WAS MARKED) 20 Q I'm handing you a document that's been 21 marked as Exhibit 5. Do you recognize 22 this document? 23 A Yes, I do. 24 Q Can you tell me what it is? 25 A This was the original notice of my</p>	<p>1 Q And I ask you please to -- as the 2 deposition goes on, to remember not to say 3 uh-huh and huh-uh because that often comes 4 out looking like the very same thing in 5 the deposition. Is that all right? 6 A I understand. 7 Q And, also, for the court reporter's 8 convenience, please wait for me to finish 9 my question before you answer and that way 10 we'll avoid talking over each other, is 11 that all right? 12 A I'll do my best. 13 (DEPOSITION EXHIBIT NO. 6 WAS MARKED) 14 Q Mr. Ferguson, I'm now handing you a 15 document that's been marked Exhibit 6. Do 16 you recognize this document? 17 A Yes. 18 Q And what is it? 19 A This was the direct -- my supplemental 20 direct testimony that was filed before the 21 North Carolina Commission in November. 22 Q And you wrote this testimony? 23 A I did. 24 Q Can you tell me at whose direction you 25 wrote this testimony?</p>
Page 114	Page 116
<p>1 deposition that we held back in June. 2 Q And are you aware that your counsel has 3 agreed that you have appeared today 4 pursuant to this same deposition notice? 5 A Yes, I'm aware of that. 6 Q And you understand that you have been 7 designated by BellSouth as the person that 8 is most knowledgeable on the issues for 9 which you have submitted testimony in this 10 arbitration? 11 A Yes. 12 Q And you understand that your testimony 13 today binds BellSouth for evidentiary 14 purposes for any of the state commissions 15 that will hear the arbitration at issue 16 today? 17 A Yes. 18 Q Let me briefly go through the rules of 19 deposition again. 20 A Okay. 21 Q It's been awhile. As you know, the court 22 reporter must hear an audible answer from 23 you because she cannot register a nodding 24 of the head. Do you understand that? 25 A Yes, I do.</p>	<p>1 A My boss. 2 Q What is his name? 3 A Ron Pate. 4 Q To your knowledge, did anybody at 5 BellSouth review your testimony before it 6 was filed? 7 A Yes, they did. 8 Q Can you tell me who those persons were? 9 A Again, it would have been Ron Pate, Keith 10 Milner, and my attorneys. 11 Q Can you remind me, please, what 12 Mr. Milner's position is? 13 A Mr. Milner is a senior director of 14 network. 15 Q Senior director of network? 16 A Network interconnection services. I'm 17 sorry. 18 Q And Mr. Pate's position? 19 A Director. 20 Q Does Mr. Pate report to Mr. Milner? 21 A Yes, he does. 22 (DEPOSITION EXHIBIT NO. 7 WAS MARKED) 23 Q I'm handing you now, Mr. Ferguson, a 24 document marked Exhibit 7. Do you 25 recognize this document?</p>

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1 A I do
2 Q Can you tell me what it is please?
3 A It is my rebuttal testimony that was
4 submitted to the Tennessee Regulatory
5 Authority on November the 19th of this
6 year
7 Q And at whose direction did you write this
8 testimony?
9 A The same response as before
10 Q It was Mr Pate and Mr Milner?
11 A Yes Uh-huh
12 Q Did you consult with anybody as you wrote
13 this November 19th testimony?
14 A Yes. I did
15 Q And with whom did you consult?
16 A My attorneys
17 Q Mr Ferguson, have you participated in any
18 of the negotiations that have occurred
19 since you and I last met in June?
20 A Not directly I was not -- I was not in
21 attendance at any of the negotiation
22 sessions
23 Q Did you act as a consultant to the persons
24 that did attend those sessions?
25 A Yes I did

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1 Q And can you approximate for me how
2 frequently you consulted?
3 A If I recall correctly there were about
4 three -- three sessions that you folks
5 had and it was probably several times
6 prior to each of those sessions
7 Q All right And with whom did you consult?
8 A I believe Keith Milner was a party to the
9 negotiations and my attorneys
10 Q Mr Ferguson let me direct you to your
11 November 12th testimony that's been marked
12 Exhibit 6 And please look at page 3 of
13 that testimony, lines 19 to 23 Do you
14 see that?
15 A Yes
16 Q And what did you mean when you stated here
17 that you offer no legal opinions?
18 A The purpose of my testimony is to address
19 policy and operational issues just as a
20 disclaimer in case there was any question
21 as to whether or not I was offering any
22 legal opinions or any legal arguments I
23 just wanted to make sure that it was clear
24 that -- that I am not a lawyer and don't
25 profess to be

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1 Q Is there a difference between a policy
2 opinion and a legal opinion?
3 A I believe there is
4 Q Can you explain to me your understanding
5 of what that difference is?
6 A If BellSouth has a policy based upon
7 previous rulings, findings operational
8 issues, then BellSouth has developed a
9 policy based on those parameters and I
10 can feel like I could comment on those
11 If there is a legal argument to be made as
12 to why our policy is what it is I just
13 don't believe I'd be the one to make that
14 argument
15 Q And that's your intention in this November
16 12th testimony was not to opine on the
17 legal -- strike that
18 Your intention was not to apply
19 the law to the issues on which you gave
20 testimony?
21 A Yes
22 Q Mr Ferguson, can you tell me whether
23 BellSouth books depreciation on all of its
24 local loops?
25 MR MEZA Object to form And

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1 specifically, what section of his November
2 12th testimony are you referring to?
3 MS JOYCE Well, I simply asked
4 the question if Mr Ferguson is the
5 witness on an issue that regards loops
6 MR MEZA That's not within our
7 agreement Our agreement was
8 Mr Ferguson's questions would be limited
9 to new or revised testimony that appeared
10 in North Carolina as well as in Georgia,
11 Kentucky, and Tennessee and to the extent
12 no testimony has changed between what was
13 originally filed in North Carolina and --
14 originally and now those questions are
15 impermissible
16 So if you could refer me to a
17 specific page in any of his subsequent
18 testimony that support the statement or
19 the question that you just asked saying
20 that that's a revision or change, then it
21 would be a permissible question If not,
22 then it's not a permissible question
23 MS JOYCE All right
24 Q Can you please look at page 7.
25 Mr Ferguson, which is your November 19th

3 (Pages 117 to 120)

Page 121		Page 123	
1	testimony in Tennessee Page 4 And I	1	BellSouth provide a count of its loops
2	direct your attention to lines 13 and 14	2	when it reports its network inventory to a
3	You're discussing CLEC's mutual efforts	3	commission or an agency?
4	to. quote view each other's LMU loop	4	A If they are asked to do so they would do
5	makeup information	5	so yes
6	And on that basis I ask you	6	Q Are you aware of whether BellSouth has any
7	whether BellSouth books depreciation on	7	obligation to make such inventory reports
8	all of its loops?	8	to a commission or an agency?
9	MR MEZA Before you answer let	9	A I have no specific knowledge of that
10	me review your prior testimony	10	Q And Mr Ferguson, may I please refer you
11	(PAUSE)	11	back to Exhibit 6 which is your November
12	MR MEZA Go ahead	12	12th testimony, page 3 lines 8 and 9 Do
13	A I can't answer that, because I'm not in	13	you see that?
14	the cost organization	14	A Yes, I do
15	Q Do you have any understanding of how	15	Q And what did you mean that your
16	BellSouth would report for financial	16	supplemental direct testimony includes my
17	purposes its loop inventory?	17	original direct testimony verbatim as well
18	A Not specifics	18	as original direct testimony verbatim for
19	Q I direct you, again, to Exhibit 7, page 4,	19	unresolved Matrix Item 86(b) Issue 6-3(b)
20	line 13 What did you mean by view each	20	adopted from BellSouth witness Morillo's.
21	other's LMU information?	21	M-o-r-i-l-l-o direct testimony?
22	A Please tell me again which line I'm	22	A We had originally submitted direct
23	sorry	23	testimony to North Carolina and, I
24	Q 13	24	believe, the same for Tennessee And then
25	MR MEZA Page 4	25	because of the 90-day abatement of the
Page 122		Page 124	
1	A Page 4 Talking about the -- the need	1	proceedings, we were then asked to refile
2	for a DLEC data local exchange carrier,	2	or to file again direct testimony We
3	to view the loop makeup information of a	3	called it supplemental direct testimony
4	line that was currently owned by a CLEC	4	And my understanding of the rules was that
5	for joint marketing purposes, if CLEC A,	5	anything that had already been submitted
6	the local carrier, entered into a joint	6	had to be resubmitted verbatim We were
7	marketing arrangement with CLEC B, the	7	not changing the previously filed
8	data exchange -- local exchange carrier,	8	testimony So I -- I filed the one
9	then the DLEC would need to be able to	9	remaining issue that I had previously
10	look at the CLEC's local loop to determine	10	responded on, and then I had -- had
11	whether they could use the high-end	11	adopted one of witness Morillo's issues,
12	spectrum of that local loop to carry their	12	and I adopted his verbatim, also because
13	product	13	he had previously filed on that issue
14	Q And what did you mean just now when you	14	Q What does the word verbatim mean to you?
15	said -- you referred to a loop that is	15	A Word for word
16	owned by a CLEC?	16	Q How do you know that the testimony you
17	A That is currently being used by a CLEC	17	submitted in this phase of the proceeding
18	To clarify, it's owned by BellSouth They	18	is verbatim of what Mr Morillo filed?
19	are leasing the loop from BellSouth but	19	A I looked at his as-filed version and made
20	they are the ones who are utilizing that	20	every attempt to move it from the original
21	loop on behalf of their local customer	21	that he filed to my supplemental direct
22	Q And in that scenario, is BellSouth	22	Q Mr Ferguson, would a CLEC need loop
23	typically paid by the CLEC using the loop?	23	makeup information if it was providing a
24	A Yes	24	service other than digital subscriber line
25	Q Mr Ferguson to your knowledge, does	25	service or DSL?

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<p>1 MR MEZA Okay Please advise 2 what page and line and version of 3 testimony this question originates from 4 MS JOYCE Sure Exhibit 7 5 line -- or excuse me page 4 6 MR MEZA Of Exhibit 7? 7 MS JOYCE That's right 8 MR MEZA All right 9 MS JOYCE November 19th 10 testimony 11 MR MEZA What line? 12 MS JOYCE 11 to 14 13 Mr Ferguson discusses that a CLEC or a 14 DLEC would need loop information I'm 15 entitled for what purposes and for what 16 services 17 (PAUSE) 18 MR MEZA Okay Go ahead 19 A As I describe here. there is a joint 20 marketing effort for -- between a CLEC 21 providing local service and a DLEC who 22 might provide a higher spectrum type 23 circuit a DSL-type service There would 24 be other needs besides the CLEC/DLEC 25 arrangement where a CLEC would want to</p>	<p>1 application of data service and a voice 2 service on the same line I don't know 3 what they call their data services 4 Q Do you know who at BellSouth would know 5 any other services for which a CLEC would 6 need to know LMU? 7 A I don't know anybody specifically that 8 would but like I said there are similar 9 services and whether they have names or 10 not. I don't know that I can just tell 11 you that a CLEC who was just offering a 12 variety of other local services has 13 nothing to do with data applications may 14 want to know what the capabilities of that 15 existing loop are and so that they might 16 try to market to that end user 17 Q And. Mr Ferguson. can you tell me what 18 experience you have in your background 19 that enabled you to be the designated 20 BellSouth witness for Issue 225? 21 A I have approximately seven years in the 22 interconnection services area dealing with 23 CLECs and CLEC issues and went through a 24 good bit of the long distance -- 25 BellSouth long distance applications and a</p>
Page 126	Page 128
<p>1 look at another CLEC's loop makeup 2 information to determine whether the 3 products or services that that second CLEC 4 offers would fit and be able to be 5 provisioned on the existing loop that is 6 already in use for an end user 7 Q And so is it your testimony then that a 8 CLEC may need to know loop makeup 9 information if it were providing a service 10 other than DSL? 11 A That is correct. that's my point 12 Q Can you think of services for which they 13 would need that information? 14 A I don't know the services that CLECs 15 offer That's -- That would be for them 16 to -- to determine. whether or not they 17 needed to know it I couldn't -- I can't 18 name their services 19 Q So essentially the only service you can 20 identify for which they would need LMU is 21 DSL? 22 MR MEZA Object to the form 23 A That is the only one that I can speak to 24 or name And that's really not naming a 25 product or service That's naming an</p>	<p>1 number of CLEC arbitrations 2 Q Do you know the services that the CLECs 3 involved in those arbitrations were 4 seeking to provide? 5 A A wide variety There were numbers of 6 issues related to different kinds of 7 services 8 Q And how did you participate in those 9 arbitrations? 10 MR MEZA I'm going to object to 11 this whole line of questioning This has 12 nothing to do with new or revised 13 testimony You're asking him background 14 information Now those are questions you 15 should have asked and did ask in the 16 original deposition I ask that you 17 please move on and appropriately ask a 18 question that is based on new or revised 19 testimony What Mr Ferguson's knowledge 20 information regarding what issues he 21 previously participated in arbitration has 22 nothing to do with new or revised 23 testimony 24 MS JOYCE Counsel. I'm entitled 25 to establish why this witness has been</p>

5 (Pages 125 to 128)

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<p>1 designated as the person with most 2 knowledge when he can't name for me any 3 services for which a CLEC would need to 4 know LMU 5 MR MEZA No, you're not 6 Because you should have asked that 7 question in the original deposition, and 8 he's not going to answer the question 9 pursuant to our agreement Please move 10 on 11 MS JOYCE You've already allowed 12 the line of questioning As to whether I 13 asked you personally -- 14 MR MEZA Well, I'm -- 15 MS JOYCE -- to this testimony 16 I'm entitled to an answer because 17 Mr Ferguson has no ability to answer a 18 question regarding his testimony 19 MR MEZA No, you're not You've 20 already had your opportunity to depose him 21 on background issues You did And 22 that's not why he's here today If you 23 can refer to a specific question -- I 24 mean, a statement in -- that's new or 25 changed please do otherwise it's an</p>	<p>1 in fact be the appropriate witness 2 MR MEZA Not pursuant to the 3 agreement that we reached to which 4 Mr Ferguson is appearing here today If 5 you had a problem with this designation, 6 you should have raised it previously when 7 you first deposed him 8 MS JOYCE But I've asked him a 9 question about his rebuttal testimony that 10 has been allowed and I was entitled to 11 pursue 12 MR MEZA And he's answered it to 13 the best that he can It is what it is 14 MS JOYCE And you're instructing 15 your witness not to answer? 16 MR MEZA Pursuant to the 17 agreement that we reached as to why 18 Mr Ferguson is here yes, I am 19 BY MS JOYCE 20 Q Mr Ferguson, this testimony at page 4 of 21 Exhibit 7, you state at line 13 that CLECs 22 and DLECs may need to know each other's 23 LMU information for joint marketing 24 efforts in line splitting Do you see 25 that?</p>
Page 130	Page 132
<p>1 entirely inappropriate question and I 2 think you're abusing the agreement that we 3 reached in bringing Mr Ferguson back here 4 today to be redeposed 5 MS JOYCE I don't think I'm 6 abusing any agreement I just think I'm 7 entitled to understand why this witness 8 has been designated as a 30(b)(6) witness 9 under the Civil Rules of Procedure when he 10 doesn't have an answer to something that's 11 patently within his supplemental and his 12 rebuttal testimony that has been filed 13 just weeks ago 14 MR MEZA How? How is it 15 patently within his rebuttal testimony? 16 What participation he had in previous 17 arbitration with other CLECs how is that 18 even remotely relevant to any information 19 that he provided that's new or revised in 20 testimony that he subsequently filed in 21 other states? 22 MS JOYCE I'm entitled to know 23 his qualifications -- 24 MR MEZA No, you're not 25 MS JOYCE -- because he may not.</p>	<p>1 A Yes, I do 2 Q In the next line you state, they also may 3 need to know that information in a line 4 sharing scenario Do you see that? 5 A Yes, I do 6 Q Is it possible a CLEC would need LMU 7 information in a situation other than line 8 splitting and line sharing? 9 A Yes 10 Q And what would that situation be? 11 A Again without having specific names for 12 the products or services they would be 13 local -- other types of local services 14 The CLECs may not even be the types of 15 CLECs that even offer line sharing or line 16 splitting options and they're just looking 17 to take over the line and want to make 18 sure that the local services that they 19 provide will fit on the line that is 20 currently being provided by another CLEC 21 to an end user Other local services 22 Q Would basic telephony be one of those 23 services? 24 A It could be just as simple as just 25 offering a local line with features</p>

6 (Pages 129 to 132)

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1 Q Mr Ferguson, I appreciate your being very
2 forthcoming with me. We are getting in a
3 situation where you're cutting off my
4 questions.
5 A I apologize.
6 Q So while I understand what you're saying,
7 I think the court reporter may get weary
8 Mr Ferguson, do you recall in
9 June we discussed whether there exists or
10 has been created by BellSouth a letter of
11 authorization that regards LMU access that
12 was not derived for a line splitting or
13 line sharing scenario?
14 MR MEZA: Object to form.
15 A I remember the general discussion about
16 that, yes.
17 Q And do you remember whether -- do you
18 remember your testimony as to whether such
19 an LOA existed?
20 A Let me clarify, Ms Joyce. Are you asking
21 me if there is an LOA for other than line
22 splitting or line sharing scenarios?
23 Q That is my question, and it had been that
24 uh-huh.
25 A Okay. There is no separate LOA. The LOA

1 A It began -- If I recall correctly, it
2 began its evolutionary process somewhere
3 around 1990 -- I want to say '97 or '98.
4 Q And that process is it a separate process
5 set up in each BellSouth state?
6 A CCP, change control process, is a regional
7 process.
8 Q Can you tell me why you attached SF-5 to
9 your November 19th testimony, please?
10 A The main purpose for attaching it and the
11 other change request that's associated
12 with it was to show that -- to support
13 the testimony I gave, that this was
14 developed through the change control
15 process. It's just supporting
16 documentation to my testimony.
17 Q And what was developed pursuant to this
18 change request form?
19 A This change request, CRO361, was -- was
20 implemented to establish the -- establish
21 the ability for CLECs to electronically
22 request loop makeup information. We put
23 this in in response to the 1999 FCC UNE
24 Remand Order.
25 Q From whom would the CLECs be requesting

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1 is the LOA, and it's required for all
2 applications.
3 Q And, Mr Ferguson, again, referring to
4 your November 19th testimony, page 4, now
5 at the top of the page.
6 A Okay.
7 Q You state at line 4, I have included
8 CRO361 as Exhibit SF-5. Do you see that?
9 A Yes, I do.
10 Q You should have Exhibit SF-5 at the back
11 of that document.
12 A Yes, I see it.
13 Q First, Mr Ferguson, what does the number
14 0361 signify?
15 A It's just the change request number.
16 That's the order -- We just number them
17 numerically as they come in, and this
18 one's the 361st change request that had
19 been submitted through the CCP.
20 Q And can you tell me, it is the 361st
21 change request since when?
22 A Since the change control process was
23 established.
24 Q Do you know when the change request
25 process was established?

1 the information from?
2 A From BellSouth, from their interfaces.
3 Q And regarding which loops would these
4 CLECs be asking for information?
5 A Any loop that was owned by BellSouth and
6 either used by BellSouth or in use by the
7 requesting CLEC.
8 Q Did this change request regard a CLEC
9 request for information about a loop used
10 by another CLEC?
11 A That was not part of the implementation.
12 It was implemented and only allowed a CLEC
13 to view its own information on a loop or
14 on a loop owned by BellSouth.
15 Q And I direct your attention to SF-5, the
16 first page, three-quarters down the page.
17 There seems to be a narrative response
18 that begins as part of its request. Do
19 you see that?
20 A Yes, I do.
21 Q And it says, AT&T also requested. Do you
22 see that?
23 A Yes.
24 Q Does that indicate that this change
25 request was submitted by AT&T?

7 (Pages 133 to 136)

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1 A I believe my testimony that I submitted
2 talks about how there were some -- at the
3 same time the UNE Remand Order was
4 delivered by the FCC AT&T was requesting
5 the capability that's defined CR0361 And
6 because of the similarities and the --
7 the synergy between the two requests we
8 used the AT&T request as the request to
9 implement the -- the mechanized loop
10 makeup process It was a timing issue
11 And through the discussions within the
12 CCP, that was the way it was determined.
13 that this would be -- this implementation
14 would be done for mechanized loop makeup
15 Q So is it fair, to summarize your
16 testimony, AT&T made the initial request
17 but BellSouth implemented it on a
18 region-wide basis for any CLEC to use?
19 MR MEZA Object to the form
20 A If -- Again AT&T's request and our
21 requirement by the -- from the FCC to
22 implement mechanized loop makeup were
23 virtually one and the same request, and we
24 combined the requests to meet both -- to
25 meet both needs And, yes it did result

1 order that may have been affected by a
2 ruling of a court?
3 A I am not aware of anything
4 Q Mr Ferguson at page 5 of your November
5 9th -- 19th excuse me, testimony, line
6 16 you refer to Exhibit SF-6 CR0409 Do
7 you see that?
8 A Yes I do
9 Q And again I believe that SF-6 is at the
10 back of this document
11 A I see it
12 Q Do you have it?
13 Is this the 409th change request
14 received by the CCP since its inception?
15 A Technically, probably not Sometimes we
16 receive requests that do -- that might
17 get cancelled by the originator and may
18 never have received a number, but this is
19 the 409th change request that made it
20 through the whole process to -- to
21 actually gain way into the CCP
22 Q So you -- until the time that this change
23 request represented at SR-6 was submitted,
24 there may have been others submitted that
25 were cancelled or fell by the wayside is

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1 in a mechanized loop makeup request
2 process that everybody uses in our region
3 Q Mr Ferguson, you have referred to a 1999
4 order about the provisioning of loop
5 makeup information Which order was that?
6 A The UNE Remand Order, U-N-E Remand Order
7 Q And which tribunal issues that order?
8 A C -- FCC
9 Q Do you know which portions of that order
10 contain the obligations that you've
11 discussed?
12 A I don't, off the top of my head I mean,
13 I've read them
14 Q Do you believe that that FCC UNE Remand
15 Order remains in force today?
16 A I'm not aware of anything that has
17 remanded the remand order, and I'm not
18 aware that we have made any changes to
19 anything that would be responsive to any
20 subsequent orders in that same topical
21 area
22 Q Do you know whether the entirety of the
23 UNE Remand Order remains in force today?
24 A I do not
25 Q Are you aware of any portions of that

1 that --
2 A That's correct, yes But nominally I
3 think we can say this is the 409th change
4 request
5 Q And what does this change request signify?
6 A This is the change request that
7 established the LOA, letter of
8 authorization, process that -- as
9 requested and conceived by the shared loop
10 collaborative CLECs
11 Q Did you work on the implementation of this
12 change request?
13 A No I did not
14 Q Have you ever worked on the implementation
15 of a change request?
16 A I've been involved in discussions around
17 various change requests but that is an
18 area of operation -- we have people that
19 do all the software work and all of the
20 release management work to get them -- I
21 don't do that It's not part of my job
22 Q Would you describe your role as that of a
23 consultant in those instances?
24 MR MEZA Object to form
25 A I can say that I have consulted with

8 (Pages 137 to 140)

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1 various groups yes. that -- that are
2 more responsible with development and
3 implementation of the actual change
4 request and with people in the CCP
5 Q And the change requests that you were
6 involved in were they all about LMU?
7 A No
8 Q Can you think of other subjects they were
9 about?
10 A It's a very wide range I would say as a
11 matter of fact, that I was not involved in
12 any of them that had to do with LMU but
13 was involved with others that covered a
14 very broad range of different types of
15 changes to our interfaces, specific
16 changes to ordering capabilities
17 Q Can you estimate for me roughly how many
18 change requests you were involved in?
19 A I have probably had some level of
20 involvement -- and I don't want this to
21 be blown out of proportion that I make
22 decisions or I'm terribly involved, but I
23 have been involved in possibly a hundred
24 different change requests over the seven
25 -- somewhat some years that I've been

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1 involved in interconnection services
2 That is not a high percentage There's
3 about 2,200 of them that have been
4 processed
5 Q Processed up to today?
6 A Approximately, yes, 2,200
7 Q And that would be since the CCP was
8 established?
9 A Correct
10 Q Could you please look at the first page of
11 SR-6 the very top? In sort of a small
12 font in italics it says, date sent.
13 5/17/2001 Do you see that?
14 A Yes I do
15 Q What does that signify?
16 A That is the date that the request -- the
17 original request was sent to the CCP
18 Q And if you could turn the page to page 3
19 of SR-6, please And toward the top of
20 the page there's a field that says 31
21 change review meeting results Do you see
22 that?
23 A Yes
24 Q The last entry in that field states, 1702,
25 implemented and release 10.3 on 1/5/02

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1 What does that mean?
2 A Well if you look at the entire contents
3 of that Section 31 of the change request
4 on page 3 you will see different dates in
5 the time line of the development of this
6 change request And as you see on
7 September the 6th we scheduled it for the
8 release 10.3 on January 5th Then we went
9 through a series of steps and the last
10 entry is a confirmation that it was
11 actually implemented on the date -- on
12 that particular date in that particular
13 release, and it's a confirmation that we
14 implemented it when we scheduled it to be
15 implemented
16 Q So roughly seven months elapsed from the
17 date on which this form was received and
18 the date on which its request was
19 implemented is that correct?
20 A Based on these dates, yes, that would be
21 correct
22 Q In your experience, is seven months a
23 representative amount of time that it
24 takes for one of these change requests to
25 be implemented?

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1 A It's representative of a change request
2 that has a similar number of requirements
3 that this change request had Everything
4 is different We've had them -- We've
5 had them extend considerably longer than
6 that based on the magnitude of the work
7 effort, based on the scheduling, the way
8 that the change control process members
9 prioritize certain change requests to be
10 included in the release schedule that our
11 folks develop to implement all of these
12 different change requests So again,
13 it's representative of maybe this time
14 back in 2002 -- 2001 2002 representative
15 of a similar change request with similar
16 requirements and based on the way that the
17 CLECs prioritize and we were able to
18 implement it according to our release
19 schedule It's a complex -- It's a
20 simple question, complex answer It
21 depends on how the schedule is set and the
22 work effort for each individual change
23 request
24 Q And who sets or prioritizes the order in
25 which these change requests get

9 (Pages 141 to 144)

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1 implemented?
2 A The change control process has guidelines
3 that help determine how the various
4 different types of change requests are set
5 for implementation. For example, we have
6 commission-ordered regulatory
7 requirement-type change requests that must
8 be put in. They go ahead -- They go to
9 the head of the line. We have CLEC or
10 CLP -- sorry, CLP submitted requests, and
11 we have BellSouth submitted requests. And
12 the CLPs typically vote on those two
13 categories. There are defect change
14 requests. There are industry system
15 change requests. There's six different
16 types of change requests, but it's mainly
17 the BellSouth and CLP-type change requests
18 that get voted on and prioritized and then
19 subsequently scheduled in our release
20 management process.
21 Q Can you tell me what type of request this
22 0409 was?
23 A Well, as you can see from the first page,
24 it's noted that this is a Type II
25 regulatory requirement.

1 there was one. I'm not aware of what the
2 actual wording of the order is. I've got
3 a copy of it back at the office, but I
4 didn't get that deep into it.
5 Q The change that was implemented as a
6 result of this change request 409 --
7 A Yes.
8 Q -- was it implemented region-wide?
9 A Yes.
10 Q And you mentioned a shared loop
11 collaborative. Can you tell me what that
12 was?
13 A Shared loop collaboratives -- and I
14 believe I defined that in my testimony in
15 a footnote -- was a group of CLPs who
16 were interested in developing line -- or
17 shared loop applications, and that
18 includes line splitting, line sharing, and
19 various others.
20 Now, they got to the point where
21 there were -- there were more
22 collaboratives than there needed to be, so
23 it was all combined into a shared loop --
24 single shared loop collaborative. And
25 there -- they were a group of CLPs who

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1 Q Does that indicate a state or federal
2 commission had ordered you to make this
3 request?
4 A Yes. As you can see, also in my
5 testimony, there is a reference to a
6 Georgia Public Service Commission order in
7 a particular docket that required us to
8 implement electronic ordering of line
9 splitting. And again, the timing was
10 such that the request from the shared loop
11 collaboratives to implement the LOA
12 process and the order from the Georgia
13 Commission coincided.
14 And by combining the two requests,
15 we could meet the requirements of the
16 Georgia order and satisfy the request from
17 the shared loop collaborative. It was
18 just a technical -- It was a -- The
19 request from the shared loop collaborative
20 was a technical solution to implement what
21 was required in the Georgia order.
22 Q Did you have a specific time limit
23 prescribed for you by the Georgia
24 Commission in connection with their order?
25 A I would -- I could only speculate that

1 had common interests in terms of product
2 and services using BellSouth's loops in
3 different ways they could be used. And
4 they held various meetings and regular
5 meetings and had worked with BellSouth to
6 develop these various shared loop
7 applications.
8 Q And Mr. Ferguson, when you use the term
9 CLP, is that C-L-P --
10 A Yes.
11 Q -- or competitive local provider?
12 A Competing local provider, CLP, yes.
13 Q And does the shared loop collaborative
14 operate on a region-wide basis?
15 A Yes. To the extent that the CLPs that are
16 involved in the collaboratives operate
17 anywhere from one state to all -- all
18 nine of our states. The meetings are held
19 for development of region-wide
20 applications and, of course, the systems
21 and interfaces that are likely to be
22 impacted are region-wide systems and
23 interfaces.
24 Q Another background fact just for the court
25 reporter's sake, is a CLPs the same as a

10 (Pages 145 to 148)

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1 CLEC?
2 A Yes it is
3 Q And CLEC stands for competitive local
4 exchange carriers?
5 A That's correct
6 Q And you're using them interchangeably is
7 that right?
8 A Well, I'm in North Carolina and North
9 Carolina is CLPs and everybody else is
10 CLECs, so you tell me, what do you want me
11 to use?
12 Q I have no preference I just want to make
13 sure that you and I are on the same wave
14 length, that's all?
15 A Quite honestly, it's easier for me to say
16 CLECs so maybe from now forward, I will
17 use that term But, yes they are
18 interchangeable
19 Q Can you think of any other change requests
20 that were the result of a commission
21 order?
22 A Not by the number, but there have been --
23 there have been a number of them We have
24 a number of -- have implemented a number
25 of Type II requests over the years

1 commission order?
2 A I'm not --
3 MR MEZA Object to the form
4 A I'm not saying that I'm just saying that
5 for -- for the small group that I've had
6 it's possibly a quarter of them that can't
7 be extrapolated into a quarter of all
8 change requests were -- I just know that
9 there's more than the ones I've worked on
10 Q That's fine I'm just trying to --
11 A Okay
12 Q -- be very clear about what it is that
13 you're familiar with --
14 A Right
15 Q -- so I know what I can ask you
16 A Sure
17 Q Of the roughly 25 change requests that
18 you were involved in that were the result
19 of a commission order --
20 A Uh-huh
21 Q -- can you tell me this, how many were a
22 direct order from a commission to
23 BellSouth?
24 A I'm not sure I understand the question I
25 think -- I think the 25 that I'm thinking

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1 Q Can you estimate how many?
2 A No, because I wasn't knowledgeable or
3 involved in all of them Certainly in
4 arbitrations prior to this where -- where
5 we might have got an order through various
6 stand-alone dockets I haven't been
7 involved in every one of them, so I
8 wouldn't know
9 Q Of the roughly 100 in which you've been
10 involved can you estimate how many were
11 instigated by a commission order?
12 A Possibly a quarter of the ones I was
13 involved in of that hundred, but -- but
14 again let me remind you that there will
15 be more than that because I just simply
16 wasn't involved in all of them But if 25
17 of the ones that I worked on or were
18 involved in were based on regulatory
19 requirements, that's going to be a small
20 percentage of the ones totally that have
21 been implemented because of regulatory
22 involvement
23 Q Is it your understanding that more than a
24 quarter of the change requests that have
25 been implemented were instigated by a

1 of that I worked on I would think they
2 were all a direct order from the
3 commissions I don't draw any distinction
4 between those types and any other types
5 Is there another type that I'm missing?
6 Q Actually I'm thinking of the following
7 circumstance
8 A Okay
9 Q Where a commission comes out with an order
10 and it's, in a general sense, applicable
11 to all CLPs CLECs
12 A Okay
13 Q And the CLP comes to BellSouth directly
14 and says please do what you have to do to
15 implement what that commission said
16 A I would say that we have taken it upon
17 ourselves to do what the commission said
18 we had to do I mean, that would be my
19 position on behalf of BellSouth is if --
20 if the commission has told us something in
21 an order we'll take care of it We don't
22 rely on the CLECs to come ask us to do
23 what the commissions have asked -- told
24 us to do
25 Q Of the roughly 100 change requests in

11 (Pages 149 to 152)

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1 which you were involved. can you think of
2 an instance where it was the situation I
3 just described to you a CLP comes to you
4 and says please make this happen because
5 the commission said X?
6 A I don't believe any of the ones that I'm
7 aware of fall into that category
8 Q And you've testified that -- and correct
9 me if I'm wrong -- that in the
10 prioritization process of these change
11 requests a commission order trumps. if
12 you will, a request submitted by the CLPs
13 themselves?
14 A That is correct because of the rules of
15 the change control process. that's what
16 they call for and that's the agreement
17 that -- that BellSouth and the CLECs have
18 within the change control process. is
19 there is a pecking order. so to speak. of
20 what trumps what. to use your words
21 Q Mr. Ferguson. may I direct your attention
22 again. to page 1 of Exhibit SR-6 I guess
23 it's field 14
24 A Yes
25 Q Title of change request It says line

1 for my end users. the requesting CLEC
2 So the edit that we're talking
3 about removing is the ability for a CLEC
4 to look at the loop makeup information of
5 another CLEC's loops That was restricted
6 by an edit So we removed the edit. but
7 at the same time -- this is why this is
8 shorthand -- at the same time we removed
9 the edit we were implementing the LOA
10 process to give it a way to get around the
11 edit That was the technical solution
12 that I talked about So you could almost
13 technically say that we really didn't
14 remove the edit as much as we implemented
15 the LOA process to accomplish the same --
16 the same result. and that was in response
17 to the shared collaborative request
18 Q In the most basic of terms because I'm a
19 lawyer can you tell me what is an edit
20 and where is it?
21 A Well in this case. an edit is in the
22 software that controls how -- when a CLEC
23 requests loop makeup information Their
24 interface is interacting with our
25 database And so when they come through

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1 splitting Remove edit -- edit excuse
2 me. in LMU prohibiting CLEC from receiving
3 loop data
4 A Yes
5 Q Can you please tell me what that means?
6 A Well. this is shorthand I will have to
7 tell you that this doesn't tell exactly
8 the whole story. but neither was it
9 designed to tell the whole story This is
10 just pretty much of a way to categorize
11 If you look on our website. it's listed
12 chronologically with all of the change
13 requests and there is just a descriptor
14 out beside the numerical designation And
15 this is what would be appearing on the
16 website and it was -- it would have been
17 taken straight from this document. but in
18 effect what this is saying is that up
19 until the time that this feature was being
20 implemented. there was an edit in the
21 process that said. if I'm going to look at
22 loop makeup information. I can only look
23 at loop makeup information for loops that
24 BellSouth has in service for its end users
25 or for the loops that I have in service

1 their interface to access our database.
2 edits are in place to prevent certain
3 things from happening or to allow certain
4 things to happen It's just the
5 controlling software language on a given
6 field or a given request For example --
7 and just using the one we're talking
8 about. if you -- if you're going in to
9 look at loop makeup and the LOA screen
10 pops up. the question is do you have an
11 LOA? And if the answer is no the edit
12 prevents you from going any farther If
13 the answer is yes another edit allows you
14 through
15 Q Could another word for edit be code?
16 MR MEZA Object to form
17 Q Lines of code?
18 A I would say no Lines of code can
19 represent anything in a software
20 transaction An edit is just simply how
21 does the software react depending upon
22 what the answer is You know it's a
23 decision tree. so to speak. it goes one
24 way if the answer is yes. it goes another
25 way if the answer is no but the edit

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1 determines which way the process goes
2 after that
3 Q Does this edit -- Did this edit exist in
4 the ordering systems at BellSouth?
5 A This is a preordering function, so I would
6 say the answer is -- is basically no
7 The -- The edit exists in the preordering
8 function of loop makeup inquiry, but it is
9 in the -- it is in the system process
10 code
11 Q Who developed this system process code?
12 A One of our -- More than likely one of our
13 contract organizations that we use to
14 develop our software. I can't tell you
15 which one
16 Q The software was developed by the
17 contractor person to -- at BellSouth's
18 request?
19 A That's correct
20 Q Did BellSouth provide the specifications
21 to that contractor
22 A I would --
23 Q To your knowledge?
24 A Yes Yes But there was collaborative
25 work between BellSouth and the contractor

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1 in taking the set of requirements that we
2 had for the feature. They would have
3 worked together to develop the final
4 requirements
5 Q To your knowledge, was it BellSouth that
6 had requested for this edit to be put into
7 with preordering function?
8 A Are you speaking of the original placement
9 of the edit that prevented the CLECs from
10 seeing other than BellSouth's or their
11 own? When we implemented -- Let me
12 answer it this way. When we implemented
13 the feature that allowed for electronic
14 loop makeup or mechanized loop makeup in
15 response to the UNE Remand Order, the edit
16 was implemented at that time that
17 prevented -- or that only allowed a CLEC
18 to look at its own or at BellSouth's
19 loops
20 Q And, to your knowledge, was it BellSouth
21 that requested for that edit to be put in?
22 A Yes, that's my understanding. Yes.
23 Q Now, Mr. Ferguson, at page 6 of Exhibit 7,
24 which is your November 19th testimony --
25 A Okay

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1 Q -- I think you were just talking about
2 this a moment ago. At lines 5 to 7, it
3 states that if a company code for the --
4 the entity that's looking at the
5 information, if it comes up as a CLEC
6 other than the one that controls the loop
7 at issue, the LOA screen will appear. Do
8 I have that right?
9 A Bear with me just a moment
10 (PAUSE)
11 A Well, you know, the LOA screen appears
12 regardless, and that's a point of
13 clarification I probably need to -- this
14 isn't worded as clear as it probably could
15 be, but the LOA screen appears regardless
16 of -- whether -- the comparison of the
17 codes of the company codes are the ones
18 that can be used down the road or as part
19 of a trail to verify that the LOA actually
20 existed in case there's an issue down the
21 road
22 Q When you say the LOA will appear
23 regardless?
24 A The LOA screen
25 Q And that will occur any time a CLEC tries

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1 to look at LMU information?
2 A That's correct. That is part of the --
3 That is part of the process, is that there
4 is a point at which the LOA screen will
5 appear
6 Q And, to your knowledge, does the screen
7 appear when BellSouth wants to look at LMU
8 information?
9 A Well, let me clarify that BellSouth would
10 only be looking at LMU information from a
11 network maintenance and repair
12 perspective. And because we own the loops
13 and because we have an obligation to
14 maintain and repair the loops that we
15 lease to other CLECs, we have a blanket
16 LOA for those purposes
17 Q Only in the network maintenance and repair
18 scenario?
19 A That is the only place that our people are
20 really and truly supposed to be looking
21 at. The -- The BellSouth retail
22 marketing organization would not be using
23 this, but network -- you know, network is
24 basically the phone company. What we
25 think of as the phone company, they

13 (Pages 157 to 160)

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1 maintain and operate the network for all
2 parties not only BellSouth but for the
3 CLECs and other carriers the
4 interexchange carriers We have
5 obligations towards everyone out of the
6 network organization
7 Q And in another scenario where BellSouth is
8 viewing LMU in a network repair
9 maintenance situation --
10 A Uh-huh
11 Q -- from whom would the LOA come?
12 MR MEZA All right You know.
13 I'm going to object to this whole line of
14 questioning because if you read his
15 deposition, you've already asked this same
16 line of questioning regarding the use of
17 BellSouth of reviewing LMU for repair and
18 network purposes Do you want to rephrase
19 your question or relate it to your
20 specific testimony that you're referring
21 to? But it's quite clear that you've
22 already went through this line of
23 questioning in the first deposition
24 MS JOYCE Right Well my
25 recent question, Mr Meza -- I'm following

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1 on Mr Ferguson I think clarification of
2 the testimony at page 6 of his November
3 19th testimony, where I asked him exactly
4 what he meant by an LOA screen will
5 appear, and he said it appears regardless.
6 so I wanted to clarify exactly when it
7 would appear
8 MR MEZA And I think he's done
9 that And now you're asking him questions
10 relating to what BellSouth looks at and
11 all -- you've asked pages of questions
12 related to that same issue in his original
13 deposition Right And I'm not trying to
14 frustrate you I'm just --
15 MS JOYCE No I just think if
16 we -- it may serve us to read his answer
17 back, because --
18 MR MEZA Sure
19 MS JOYCE -- he said -- he
20 discussed that LOA would be used in the
21 network repair maintenance situation
22 MR MEZA And he said that in his
23 deposition
24 MS JOYCE Let the record reflect
25 that we are looking through our deposition

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1 transcripts
2 MR MEZA If you look on page 52
3 and prior to that, 53
4 (PAUSE)
5 (DEPOSITION EXHIBIT NO 8 WAS MARKED)
6 Q Mr Ferguson I'm handing you a document
7 marked Exhibit 8
8 MR MEZA I am objecting to you
9 asking him any questions based upon
10 testimony he provided in a deposition
11 That's beyond the scope of our agreement
12 You can't go and ask him questions related
13 to testimony that he already provided If
14 you can relate the issue or the question
15 that you have to newer or revised
16 testimony, then it is an appropriate
17 question It's entirely inappropriate to
18 ask him -- to effectively cross-examine
19 him to get a second bite of the apple to
20 questions you've already asked him in his
21 deposition
22 MS JOYCE That said, the
23 question I'm going to ask relates directly
24 to trying to understand exactly what your
25 witness' testimony is --

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1 MR MEZA No, that's
2 impermissible
3 MS JOYCE -- because he is -- it
4 is not because he just made the testimony
5 today -- and we'll have to have it read
6 back it's just a couple of minutes ago,
7 where he stated that in a network
8 maintenance and repair situation there
9 would be an LOA That is testimony
10 offered by your witness in response to a
11 question that I have posed to him stemming
12 from new testimony You've now raised the
13 issue of a prior statement in the
14 deposition and we found it and now I'm
15 entitled to compare and understand --
16 MR MEZA No
17 MS JOYCE -- exactly what his
18 position is
19 MR MEZA You're not entitled to
20 do that, and I'm not going to allow it to
21 happen To the extent Mr Ferguson can
22 answer the question that you raised -- and
23 let's have it reread if we can that is a
24 permissible question But I am not going
25 to allow you to use his prior deposition

14 (Pages 161 to 164)

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1 testimony to impeach him because that
2 violates -- or to further the question
3 because that violates the entire spirit of
4 our agreement
5 MS JOYCE Well, I don't believe
6 impeach was anywhere in my explanation I
7 just want to understand exactly what he
8 means when he says that the LOA would
9 appear regardless and when he discussed of
10 his own accord the situation of network
11 maintenance and repair I'm not trying to
12 trap anybody We just need to know what
13 the position is
14 MR MEZA That's fair And if we
15 could have it -- the answer read back and
16 the question to understand the scope of
17 the question, that may shed some light on
18 the direction we need to go So, Madam
19 Court Reporter
20 (RECESS)
21 (THE COURT REPORTER READ BACK THE
22 REQUESTED PORTION OF THE RECORD)
23 BY MS JOYCE
24 Q Mr. Ferguson, I'm going to repeat my
25 question Would the LOA screen referenced

1 process to take their request to the CCP
2 this is what -- this is the similar
3 situation that they could work with other
4 CLECs within the CCP to get on to work
5 towards possibly what it is they're
6 after
7 And just to clarify what's going
8 on with these CSR records, CSR to look at
9 another -- another company's customer
10 you have to have an LOA to look at the
11 CSR Well the CLECs are working it out
12 to where for certain different types of
13 requests, they don't require an LOA And
14 since this issue is all about whether or
15 not an LOA should or should not be
16 required and this other situation that
17 they're working out is whether or not an
18 LOA should or should not be required, my
19 suggestion -- and this supports my
20 suggestion that they take it to the CCP
21 for the LMU/LOA situation
22 So don't take this to mean that
23 there's any comparison between what's in a
24 CSR and what's in LMU That's just not
25 the point The point is take it to the

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1 on page 6 of your testimony appear when
2 BellSouth wanted to view LMU information?
3 A To the best of my knowledge, yes
4 Q And would that happen when the BellSouth
5 network maintenance and repair people
6 would want to view LMU information?
7 A Yes
8 Q Thank you for clearing that up
9 On page 8 of your November 19th
10 testimony, top of the page lines 1 to 6
11 you discuss, quote a similar situation
12 before the CCP regarding the CLECs
13 reciprocal viewing of each other's
14 customer service record CSR,
15 information Do you see that?
16 A Yes I do
17 Q Why in your mind is that situation similar
18 to the situation at issue in Issue 225?
19 A I use the example of the CCP collaborative
20 actively working out an issue to show that
21 it can be done This isn't, necessarily,
22 a comparison of whether CSR information is
23 equivalent to LMU information That was
24 not the point The point is we've been
25 telling the Joint Petitioners in this

1 CCP, work it out with the other CLECs
2 BellSouth is there to support within the
3 guidelines, whatever the CLECs work out
4 And that's been the whole point of my
5 testimony on this issue, is we don't have
6 a dog in the fight, but let's do it the
7 right way The right way is to let the
8 CLECs work this out
9 Q So just so I can be clear on what's on
10 page 8, so I understand you are not
11 saving that a CSR is like LMU What you
12 are saying is that the situation of CLECs
13 wanting something and your belief that it
14 needs to go through the CCP is the same
15 for CSRs and LMU?
16 A Absolutely because as I've mentioned I
17 think before the CCP is a place that, you
18 know it says right here, they're designed
19 to tackle this very type of issue and I
20 firmly believe that
21 Q Do you know why an LOA is required for a
22 CLEC to look at a CSR?
23 A Yes
24 Q Why?
25 A Because the CSR contains CPNI, customer

15 (Pages 165 to 168)

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1 proprietary network information. that we
2 have an obligation to protect And if
3 someone gives us permission to release
4 that information. we can do so
5 Otherwise we're going to protect it
6 Q What does that obligation that you
7 mentioned come from?
8 A There's the federal rulings that require
9 the protection of CPNI by -- it's not
10 just BellSouth it's by all carriers that
11 hold CPNI information Everybody's
12 required to protect it. and it's just one
13 of the code of federal regulations I
14 can't remember exactly the -- I've read
15 it. but I can't remember exactly the cite
16 Q Do you know whether those same federal
17 rulings apply to LMU?
18 A As I said earlier. I don't equate LMU
19 information to CSR information in terms of
20 CPNI. although a case could be made that
21 certain pieces of information on the LMU
22 could -- you know. some companies
23 themselves might not want it to be
24 allowed. but it's not -- this is not a
25 CPNI issue with BellSouth

1 nondiscriminatory access to the
2 information contained in CSR database
3 And once we proved that we did provide
4 nondiscriminatory access in the 271
5 hearings. then from that point I believe.
6 you say that BellSouth does provide the
7 access and we do it in accordance with
8 what the FCC and the state commissions
9 require to meet a certain checklist and
10 the two checklist items in the 271
11 obligation And then from that point. we
12 have an obligation to protect the
13 information that's in that database And
14 now we have the policy developed based on
15 the original orders and two -- from the
16 271 proceedings
17 Q And the items or issues that you worked on
18 in the 271 proceedings. did they regard
19 unauthorized access to CSR information?
20 A That was part -- That was part of the
21 whole access -- nondiscriminatory access
22 issue related to CSR That was a piece of
23 it. yes
24 Q Do you consider yourself to be the most
25 knowledgeable person at BellSouth about

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1 Q So then is your answer that. no those
2 federal rulings regarding CPNI do not
3 apply to LMU?
4 A I would agree with that
5 Q All right Let's move on to issue
6 6-3(b)
7 Mr Ferguson can you tell me why
8 you are now the witness for this issue?
9 A I can give you two reasons Number one.
10 at the time. Mr Morillo had an awful lot
11 of policy issues. and. number two the
12 policy issue that this relates to has some
13 birth. if you will. back in some
14 operational issues that were satisfied in
15 the 271 hearings. and I was part of -- of
16 the testimony development for the
17 operational issues that later became our
18 policies So I have some background in
19 it. is my answer
20 Q And these are policies that regard access
21 to CSR information?
22 MR MEZA Object to form
23 A The initial -- The initial situation that
24 I was working in was whether or not
25 BellSouth's interfaces provided

1 this Issue 6-3(b)?
2 A I would say I'm among the most
3 knowledgeable
4 Q Mr Ferguson can you please pick up
5 Exhibit 6 which is your November 12th
6 testimony?
7 A Yes
8 Q Page 11 lines 15 to 19 Do you have
9 that?
10 A Yes
11 Q And my question to you is this sentence
12 that appears at lines 15 to 19 does that
13 memorialize three different options that a
14 party could take if it believed the other
15 party was accessing CSRs without
16 authorization?
17 A It's not three separate options It's
18 three possibilities in a line of or a
19 procession of -- of happenings It looks
20 to me like -- It looks to me like that
21 one -- we would take one step then the
22 next step. then the next step based on how
23 negotiations were going between the two
24 parties that were disagreeing on this
25 Q At --

16 (Pages 169 to 172)

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1 A But they -- it could -- I'm sorry it
2 could include up to and including all
3 three
4 Q So then on line 17 where there's an
5 and/or --
6 A Yes
7 Q -- the clause that follows that states
8 that access to ordering systems may be
9 suspended. That may or may not happen, is
10 that correct?
11 A That is correct
12 Q Who would decide whether that happened?
13 A It would be a combination of the
14 operations folks and our legal department
15 Q Essentially BellSouth would decide?
16 A Oh, yes. Well -- And let's remember,
17 Ms. Joyce, that we started out by saying
18 the party providing notice. This could
19 actually work the other way around, if, in
20 fact, BellSouth was accessing a CSR
21 database of a CLEC
22 I mean, that -- we don't have
23 that electronic access with any CLECs at
24 the moment, but this is -- this could be
25 considered to be reciprocal language if,

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1 in fact, the situation were the same where
2 we were accessing any of these CLECs'
3 databases for customer records
4 electronically. That's not the case, we
5 request them by e-mail or telephone or
6 whatever, but -- and we get them manually
7 sent back to us. But if the event arose
8 that it was an electronic request from us,
9 we would be held to the same standards
10 Q Is there any CLEC or CLP in the BellSouth
11 region that provides BellSouth with
12 electronic access to ordering?
13 A I'm not aware that there is, but there
14 could be. I just -- I'm not aware of
15 that
16 Q And in practical terms, if, in fact,
17 BellSouth suspended ordering systems to a
18 CLP or a CLEC, what does that mean?
19 A We would -- You know, again, we don't do
20 this on a whim. We don't terminate access
21 on a whim. We discuss and we talk with
22 the CLEC. Hopefully we can work it out.
23 But in the event that termination was
24 necessary upon advice of operations -- of
25 high-level operations folks and the legal

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1 department, we would simply deactivate the
2 permission codes that allow a CLEC to
3 access our databases via their
4 interfaces
5 Q And in that event, could a CLP or a CLEC
6 place an order?
7 A If we discontinued their ability to access
8 the ordering systems, then, no, they could
9 not
10 Q They couldn't place any orders at all?
11 A That is correct
12 Q In your experience in this industry, do
13 you think it's possible that if a CLEC
14 couldn't place an order that it could lose
15 a potential customer?
16 A Absolutely. The same would be true for
17 BellSouth. If we couldn't place an order
18 in a timely manner within our own systems,
19 we could lose that customer
20 Q Do you think that a CLP or a CLEC could
21 lose a customer that's an existing
22 customer that wanted to add a service and
23 the CLP couldn't place that order?
24 A I -- Yes, they could
25 Q And as to whether BellSouth has electronic

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1 access to any CLP or CLEC ordering, does
2 it have access to KMC orders
3 electronically?
4 MR. MEZA: Object to the form.
5 A All I can tell you -- let me -- let me
6 see if I can answer it this way. We have
7 more manual interactions with the CLECs.
8 We submit our orders manually. We get
9 back things manually. There may be a
10 very, very small percentage where we've
11 got some interaction with -- on certain
12 functions. I mean, end to end, no. I
13 mean, we may not be able to do preordering
14 electronically, maybe we can submit an
15 order electronically, but we can't do the
16 whole spectrum with anyone that I'm aware
17 of. Can't submit repair and maintenance
18 requests electronically like CLECs can do
19 with us. Preordering, they can do it with
20 us, ordering, they can do it with us.
21 Billing inquiries, LMU, CSR, all of that,
22 the CLECs can do that with us
23 electronically. We don't have that same
24 capability with the CLECs
25 Q And as regarding KMC --

17 (Pages 173 to 176)

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1 A Uh-huh
2 Q -- is there any degree of electronic
3 interaction that BellSouth has?
4 A I'm not aware of any
5 Q And as for Xspedius?
6 A Not aware of any
7 Q And NuVox?
8 A Not aware of any
9 Q You state at page 11 on line 18. access
10 may be suspended if such use is not
11 corrected or ceased by the fifth calendar
12 day following the date of the notice Do
13 you see that?
14 A Yes
15 Q Now just so I understand it. is that five
16 days after the CLP receives the notice?
17 A No It would be the date of the notice
18 that the -- the date that the notice was
19 provided. which, in my estimation, is
20 immediate It's the date of receipt as
21 well as the date of us sending it I
22 can't imagine that there would be any
23 delay in that
24 Q Do you know by what means the notice would
25 be sent?

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1 A Not specifically. no, but I would imagine
2 that there would be an e-mail We have
3 e-mail conversations with our CLEC It
4 would probably be followed up by a
5 registered letter of some sort
6 Q To your knowledge, would the general
7 notice provision of the interconnection
8 agreement state the means by which the
9 notice would be sent in this case?
10 A I don't -- I'm not knowledgeable of the
11 general terms -- all the general terms and
12 conditions I don't know the answer
13 Q You're unaware of any provision in the
14 interconnection agreement that would
15 provide -- or excuse me that would
16 mandate electronic transmission of notices
17 in this instance?
18 A Let me clarify I am aware that there are
19 provisions that talk about notification
20 What I'm not aware of is whether or not
21 this particular one would fall under
22 those -- those guidelines
23 Q Do you think the notice would be sent
24 electronically?
25 MR MEZA Object to the form

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1 A I think there's a likelihood it could be
2 yes
3 Q BellSouth has manual interactions with a
4 CLP or a CLEC. how could that CLP or CLEC
5 suspend BellSouth's access orders?
6 A Well they could simply just -- they
7 could simply not accept them If we fax
8 them to them or e-mail them to them they
9 simply don't work them Although in this
10 particular case, when I was talking about
11 this being a reciprocal -- a reciprocal
12 situation if -- if the technology was
13 equivalent. that's predicated on us.
14 BellSouth. unauthorized access of the CSR
15 database of the CLEC through electronic
16 means we have no other means to access
17 the CSR database of a CLEC other than
18 electronic but that doesn't really exist
19 with our CLEC partners
20 So in talking about us being
21 reciprocal you have to understand that
22 it's in the context of us abusing --
23 being terminated because we abused access
24 to the CSR database That's the issue is
25 access to the CSR database

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1 Q Is there any way to abuse access to manual
2 orders?
3 A I don't know what you mean by access to
4 manual orders What does that
5 Q Well you've stated that BellSouth has the
6 capability to suspend a CLP or CLEC's
7 access to electronic orders
8 A The ability for the CLP to actually order
9 electronically See, the preordering
10 function is what we're talking about here.
11 looking at the CSR database And then
12 they -- and we can prevent a CLP/CLEC
13 from accessing through preordering
14 data -- through a preordering function
15 We can also terminate a CLEC's ability to
16 submit firm orders through the ordering
17 process, but what we're talking about here
18 in this issue is unauthorized access
19 during a preordering function which would
20 then lead to not only suspension of access
21 to that preordering function but
22 suspension or termination of the ability
23 to actually place orders in the next phase
24 of the process
25 Q I understand Is there any way that you

18 (Pages 177 to 180)

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1 can think of for BellSouth to misuse a
2 manual order?
3 A And may I ask submitted by whom?
4 Submitted by the CLEC?
5 Q Yes
6 A Yes there's room for -- there's room for
7 mishandling of a manual order
8 Q Can you think how that could happen?
9 A Well, humans are involved in a manual
10 process like that, so human error
11 Q And is it -- is it BellSouth's wholesale
12 entity that handles CLEC orders?
13 A Yes it is
14 Q Is it possible that the humans involved in
15 processing the manual CLEC order could in
16 some way let a BellSouth retail entity see
17 that order before it's implemented?
18 MR MEZA Object to the form
19 A That would -- That would require an
20 egregious violation of all of our rules
21 Technically yes I could -- a rep in the
22 wholesale group could walk it, you know,
23 to another building and say here look at
24 this but that violates all of our rules
25 of how we deal in the wholesale side and

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1 how we protect information That's a
2 horrible violation That's a firing
3 offense
4 Q Is a manual order placed by a CLEC entered
5 in some way into an electronic database at
6 BellSouth?
7 A Yes
8 Q Who would enter it?
9 A The representative of the local carrier
10 service center, the LCSC
11 Q Is that a wholesale entity?
12 A Yes it is
13 Q Where would the order then be stored once
14 it's entered?
15 A There's a wholesale database that the
16 information about the LSR, the local
17 service request that is either faxed or
18 e-mailed to our LCSC It is first stored
19 in a -- basically a picture format We
20 have a -- We image it and store it in a
21 database in the wholesale side But the
22 reps will take the information off of the
23 local service request and they will input
24 it into a terminal And as they're
25 inputting that CLEC information that

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1 they've written up, as we're looking at
2 that information, we're typing it into a
3 terminal that converts that information
4 into the kind of format that is required
5 for our service orders so that the service
6 orders can then flow to the different
7 departments out in the field for
8 provisioning It's doing a manual process
9 for the CLECs who have electronic access
10 get done for them automatically but a
11 human does it versus the machine doing
12 it Depending on how the LSR comes to
13 BellSouth, it ends up in the same database
14 and it ends up in the same format as a
15 BellSouth standard service order to be
16 worked and provisioned
17 Q Do you know what Operations Support
18 Systems are?
19 A Yes
20 Q On a scale of 1 to 10, how much
21 familiarity do you have with BellSouth
22 OSS Operation Support Systems?
23 A Are we talking strictly on the wholesale
24 side, because I think the term is very
25 broad? But if you're talking about OSS

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1 Operation Support Systems, for wholesale
2 interactions, I'm very familiar On a
3 scale of 1 to 10, 8, maybe if you're
4 asking
5 Q That's better than I
6 Same --
7 A Let me say this There's a lot of people
8 there that provide me support and
9 information
10 Q And the same question as to OSS systems on
11 the retail side, what's your familiarity?
12 A Extremely low
13 Q How is -- strike that
14 Is the wholesale part of OSS
15 separate from the retail part of OSS?
16 MR MEZA Object to form
17 A I'll give you a two-part answer At the
18 front end the way that the requests are
19 put in by the retail folks versus the way
20 the requests are processed for the
21 wholesale folks, it's not the same But,
22 remember, we have obligations to make it
23 appear the same in terms of how fast we
24 process these orders So don't get me
25 wrong we still meet our obligations

19 (Pages 181 to 184)

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<p>1 related to nondiscriminatory access but 2 they ultimately all end up in the same 3 place. The retail and wholesale orders 4 all end up as BellSouth service orders 5 Q Can we go back to Exhibit 7 please, your 6 November 19th testimony. At page 10 7 Lines 14 to 15, you say that BellSouth 8 needs timely resolution of a situation 9 that places BellSouth other CLECs, and 10 end-user customers at risk 11 Can you tell me how BellSouth 12 would be placed at risk if a CLEC had 13 unauthorized access to a CSR? 14 A As I explained earlier, the CSR 15 information is CPNI and we have an 16 obligation to protect CPNI. If we don't 17 protect CPNI, somebody's going to complain 18 about it and we'll be before commissions 19 of various states and the FCC or whatever 20 in court even, being sued. And we take 21 our obligation to protect CPNI very 22 seriously 23 Q Is there any other way in which BellSouth 24 is placed at risk in that situation? 25 A Yes. Our systems and the network can be</p>	<p>1 to take a customer from us we're at risk 2 of losing it because of their unauthorized 3 use, yes 4 Q And it's also your opinion that other 5 CLECs are at risk as you've testified 6 here at lines 14 to 15? 7 A For the same reasons 8 Q Has BellSouth's ability to order -- place 9 orders with a CLP or CLEC ever been 10 suspended? 11 A I'm not aware that it has, no 12 Q At page 11 of this exhibit, your November 13 19th testimony, you're explaining why it 14 may be necessary to suspend a CLP's access 15 to ordering 16 MR MEZA Excuse me, what line 17 again? 18 MS JOYCE Oh 1 through 6 19 MR MEZA 1 through 6, okay 20 MS JOYCE Page 11 21 A Okay 22 Q Is the only way to achieve the objective 23 outlined in lines 1 through 5 suspending 24 ordering access? 25 A Yes</p>
Page 186	Page 188
<p>1 placed at risk in terms of how this 2 unauthorized or unauthorized CSR access is 3 taking place. There could be some 4 technical issues associated with how it's 5 being done, not just the fact that it's 6 being done in violation of law. It could 7 be technically damaging to us, so, yes 8 we're at risk 9 Q Is there any other way BellSouth is placed 10 at risk? 11 A None that come to mind at the moment 12 Q In your opinion, is it possible that 13 BellSouth could be at risk of losing a 14 customer? 15 MR MEZA Object to the form 16 A Well, as I said earlier, if we had legal 17 issues with not protecting CPNI that, yes, 18 we could lose customers 19 Q Is there any other way you could lose a 20 customer in a situation where a CLEC or a 21 CLP has obtained unauthorized access to 22 CSR? 23 A Well, I think just the very idea that a 24 CLEC has accessed CPNI for marketing 25 purposes and uses that to their advantage</p>	<p>1 Q If a CLP could only submit orders 2 manually could they obtain unauthorized 3 access to CSRs? 4 A I think it's possible -- well, yeah, it's 5 definitely possible that a CLEC could use 6 a mechanized preordering which would be 7 the access to the CSRs and then turn 8 around and submit orders manually 9 That's -- That is possible 10 Q If the CLEC -- strike that 11 Can CLECs engage in preordering 12 processes manually? 13 A Yes 14 Q To your knowledge has BellSouth ever been 15 investigated for alleged unauthorized 16 access to CSRs? 17 MR MEZA Object to the form 18 A Again, I'm not aware that we have the 19 ability to access CSR databases of other 20 customers, so I would say I'm not aware 21 Q Pages 11 to 12 of your November 19th 22 testimony, lines 19, 24 and continuing 23 you discuss, quote, only one circumstance 24 where BellSouth has suspended or 25 terminated access. When did that</p>

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1 suspension happen?
2 A It's been several -- several years back
3 Q Was it since the 1996 Act was passed?
4 A Yes
5 Q Do you recall if it was in the year 1997?
6 A Later than that
7 Q '99?
8 A My recollection is it was around the turn
9 of the century
10 Q And the offending conduct of this CLEC
11 did that occur in any particular state?
12 A Well it occurred in a regional system.
13 but it was related to customers of one
14 state
15 Q Which state?
16 A Florida
17 Q I refer you to lines 23 and 24 of page
18 11 In what way was there a degradation
19 of service in the performance of
20 BellSouth's OSS?
21 A When a company sets up a program that
22 continually accesses and queries a
23 database, that limits the amount of
24 traffic that can get into that database
25 because, you know, you've got one database

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1 and you've got a limited amount of access
2 to that database And when one company is
3 tying that access up in an unusual manner,
4 not the normal course of business, then
5 other CLECs and BellSouth are unable to
6 access the CSR database So there was a
7 physical degradation of our capabilities
8 to provide the access
9 And remember, I'll go back we
10 have an obligation to provide the access
11 And we take that seriously, so we're
12 measured on it we're fined on it
13 Q Was the Florida PSC involved in
14 BellSouth's decision to suspend that
15 CLEC's access?
16 A I don't know
17 Q Do you know how long that suspension
18 lasted?
19 A How long it lasted?
20 Q Yeah
21 A No, I do not specific -- I mean to the
22 day I do not know no
23 Q Can you opine at all? Was it a month?
24 A I would rather not I don't have a
25 Q Has BellSouth ever sought any tribunal --

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1 by that I mean a commission or a court or
2 agency --
3 A Uh-huh
4 Q -- involvement when it thought a CLEC had
5 accessed CSRs without authorization?
6 A Not to my knowledge
7 Q Do you happen to know the procedure by
8 which BellSouth could seek such an
9 intervention?
10 A I do yes
11 Q Can you describe them for me?
12 A Complaint before the Commission
13 Q Would that be a written complaint?
14 A We would formalize that yes
15 Q Referring again to Exhibit 7 your
16 November 19th testimony would you turn to
17 page 9, please, line 19
18 Essentially you're stating, quote,
19 BellSouth needs to have necessary and
20 timely recourse Do you see that?
21 A Yes
22 Q What does timely mean to you?
23 A As soon as we can make it happen, if it's
24 to the -- if it's to the extreme case
25 where we need -- we recognize a problem

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1 we need to protect ourselves Timely
2 means get it done as rapidly as possible
3 to protect ourselves
4 Q Do you have any idea how long a complaint
5 to a commission would take to get
6 resolved?
7 A I've -- You know it varies I know that
8 they -- Depending on the topic, it can be
9 solved or handled very rapidly Some of
10 them get very complex and last a long
11 time So I don't think there's any set
12 amount of time, and I don't have an
13 opinion as to how long this particular
14 type of complaint would last, no
15 Q I think that your stated goal is to get
16 recourse as quickly as you can make it
17 happen Do you foresee a commission role
18 in that process?
19 MR MEZA Object to form
20 A There could be a role if either party were
21 to file a complaint Other than that no
22 Q Are you aware the time it generally takes
23 a commission -- a state commission to
24 resolve a written complaint?
25 MR MEZA Object to form

21 (Pages 189 to 192)

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1 A It sounds like you're asking a general
2 question so I'll give you an answer like
3 a minute ago It depends on what the
4 topic is I'm aware that they can be
5 handled expeditiously, and I'm aware that
6 they can take a long time I don't have
7 an opinion about whether or not a
8 complaint on this topic would take a short
9 amount of time or a long amount of time
10 Q Speaking as to a state commission's
11 resolution of an issue --
12 A Uh-huh
13 Q -- what would you consider to be timely?
14 A In terms of what we would need to -- to
15 have and what timely means to us, once we
16 determine that there is unauthorized abuse
17 and we determine that it's likely to
18 continue because the alleged offending
19 CLEC isn't cooperating to end it, we want
20 now Now is timely
21 Q What would it mean for a CLEC not to be
22 cooperating?
23 A Well, you know this topic of unauthorized
24 CSR access is not the only kind of things
25 that we might get involved in discussing

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1 with a CLEC that -- where things need to
2 be taken care of And they discuss things
3 with us that we need to take care of But
4 when you're working at it together and
5 there's a good-faith effort to come up
6 with a resolution that's not the time
7 where you go slamming into somebody and
8 say, we're taking you to court we're
9 taking you to the commission You work
10 through the problem if you can If one
11 party doesn't recognize that there's a
12 problem and refuses to cooperate and we
13 have good evidence that something's going
14 on out of the norm, then now is timely
15 Q And in the instance you described, what
16 would it mean that the CLEC has refused to
17 cooperate?
18 A They -- Well I also said that they
19 refused to recognize that there is a
20 problem But beyond that if they don't
21 agree that there's a problem, then I guess
22 the natural step -- next step would be to
23 refuse to do anything about it They
24 don't agree that there is something to do
25 anything about But as I said, if we

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1 have good evidence and we present good
2 evidence and there is a collaborative
3 effort to resolve the problem, we're not
4 looking to turn people off
5 Q To whom would that good evidence be
6 presented?
7 A To the principal contacts of the CLEC, you
8 know, whoever our designated contacts are,
9 whoever our people work with on a daily
10 basis We have representatives in
11 different parts of our organization that
12 work with CLECs That's their job They
13 interact on a daily basis
14 Q If you send a notice, such as the one that
15 you've described in your testimony --
16 November 12th testimony on page 11 lines
17 18 to 19 -- we talked about this earlier,
18 that it could be suspended if not ceased
19 by the fifth day -- would it -- would you
20 deem it to be cooperative if the CLEC
21 answered the notice in some form of
22 writing?
23 A It depends on what the answer to the
24 notice said Obviously, it could say
25 something anywhere from, well, you know

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1 we're sorry, that we were not aware, we'll
2 look into it we'll get back to you
3 That's what we hope for, you know We
4 hope for some sort of a response that says
5 they're going to do -- you know, do due
6 diligence on their part, and then that
7 opens the line of communications and we
8 keep in touch
9 Otherwise, the answer might be
10 we -- that couldn't possibly be
11 happening we don't agree with you have a
12 good day And that to us is no evidence
13 that that other party will be doing due
14 diligence to correct the problem and we
15 have to be able to move forward from that
16 Q If you received a response from a CLP or a
17 CLEC that said thank you for the notice
18 this is a serious situation, we're going
19 to look into it how long do you think is
20 a reasonable time to wait for the
21 situation in BellSouth's mind to have
22 ceased?
23 MR MEZA Object to form
24 A Let me clarify Are you saying that after
25 we deliver the first notice and we get a

22 (Pages 193 to 196)

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1 positive response -- I'll call that a
2 positive response that the CLEC wishes to
3 work with us, so to speak -- I just simply
4 view that as the beginning of the process
5 for resolution, and it would be a
6 different situation -- I mean, depending
7 on what they're finding and what we're
8 talking about from that point forward,
9 their first response to us from that point
10 forward, we would be gauging the level of
11 involvement that that other CLEC was
12 taking as far as their due diligence and
13 we'd be working with them on a daily basis
14 to get a cure for this thing. So what's
15 reasonable is give us a positive response
16 we'll work with you and we'll go forward
17 And at some point in the future if it
18 doesn't cease we'll have to take action
19 But that point -- I mean we have
20 to understand that -- that in a business
21 environment, in a business arrangement
22 between two companies, if you've got a
23 good-faith effort going on, it's not our
24 intention to find a reason to shut them
25 off. It's our intention for them to shut

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1 it off themselves and let us keep -- I
2 mean, Ms. Joyce, when we cut off a CLEC,
3 we're losing some revenues. If they're
4 not able to order new services, we have a
5 loss of revenue on the wholesale side.
6 That could be very brand-new business that
7 we weren't even serving on the retail
8 side. So I mean we like our CLEC
9 wholesale customers. So it's not our
10 intent to go looking for -- and with
11 these particular CLECs I don't
12 understand -- really don't understand
13 what the issue is, because I -- I'm not
14 aware that we've ever had a problem with
15 them as far as any of this is concerned.
16 And I've cited -- only been able to cite
17 one example of where we had a problem.
18 MR. MEZA: Are you convinced?
19 MS. JOYCE: I am just the
20 messenger.
21 Q: Mr. Ferguson, your November 19th
22 testimony, could you turn to page 10,
23 please?
24 A: Yes, I have it.
25 Q: Line 15 to 16 states that CLECs are well

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1 aware that BellSouth does not
2 terminate -- strike that -- suspend or
3 terminate access to OSS interfaces on a
4 whim. Do you see that?
5 A: Yes, I do.
6 Q: How would a CLEC be well aware of that
7 fact?
8 A: Because I would imagine that the CLECs
9 could only cite you the one example I
10 cited you of a time that we ever suspended
11 or terminated. I don't believe anybody
12 can make a case that we've just gone out
13 and cut people off for this particular
14 unauthorized CSR access.
15 Q: Do you know if that is what the BellSouth
16 negotiators told the Joint Petitioners
17 during the negotiations?
18 A: Which? Which -- Do I know what?
19 Q: That you've shut one CLP down?
20 A: I don't know what they said.
21 Q: On page 11 of your same testimony, if you
22 could turn to that page and look at lines,
23 essentially 1 to 12.
24 Your testimony is that BellSouth
25 is obligated to protect information. Why

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1 is it obligated?
2 MR. MEZA: Object to the form.
3 A: Well, I believe -- correct me if I'm
4 wrong, but I believe we talked about this
5 issue of what the federal guidelines
6 require of carriers regarding CPNI
7 information. And we have an obligation to
8 protect that, and that's pretty much what
9 we're talking about here. And this issue
10 is why we need to have the ability to stop
11 unauthorized access to information we're
12 obligated to protect.
13 Q: You also discuss BellSouth's right to
14 protect its network. Where does that
15 right stem from?
16 A: We own it and we have certain rights of
17 ownership to make sure that not only can
18 we serve our end users, but we have
19 obligations to serve other carriers and
20 their end users. So, you know, is there a
21 law that says -- I think it's -- I don't
22 know that that's telecommunications law.
23 I just think it's just law that says if
24 you own something, you have the right to
25 protect your property. And we have

23 (Pages 197 to 200)

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<p>1 reasons for wanting to protect it, but I 2 think the right comes in ownership and the 3 fact that we are a regulated organization 4 Q Good gracious. I think we've stumbled into 5 an area of natural law 6 On a scale of 1 to 10 and 10 is 7 the highest how important is it to 8 BellSouth to protect CPNI information? 9 A 11 10 Q On a scale of 1 to 10 -- 11 A 10 12 Q -- 10 being the highest -- 13 A 10 14 Q 10 Protecting information is a level of 15 10 in importance to BellSouth, is that 16 your testimony? 17 A Protecting information but also mitigating 18 our customers' risks is a piece of that 19 that's very important to us 20 Q And on a scale of 1 to 10, 10 being the 21 highest how important is it to BellSouth 22 to protect its network? 23 A 10 It's our livelihood 24 Q When the one CLEC in Florida was 25 suspended, who was the final determiner</p>	<p>1 So I mean, it's not complicated. 2 it's just, you know -- it was as simple as 3 an automatic dialing program that isn't 4 allowed I mean, it's not supposed to be 5 the method or the reason that the CLECs do 6 make inquiries of the CSR database 7 Q How did BellSouth figure out that that's 8 what the CLEC had done? 9 A Primarily degradation of service was the 10 first indicator We recognized that we 11 were having problems accessing the CSR 12 database, and then there is -- from a 13 security standpoint, you know, we log all 14 inquiries to the CSR database It didn't 15 take long to figure out that too many 16 inquiries were coming in too short a time 17 from an individual CLEC It's not hard to 18 see that 19 Q Did the CLEC provide BellSouth with any 20 information that helped it reach the 21 conclusion that there was an auto 22 accessing function going on? 23 A I don't know 24 Q What would it mean for BellSouth and a 25 CLEC to work together to resolve a</p>
Page 202	Page 204
<p>1 that unauthorized access had taken place? 2 A The -- Well, no individual person, but it 3 was in the operations side of the 4 business 5 Q Do you have any understanding as to 6 whether that CLEC lost customers as a 7 result of being suspended? 8 A It would be an assumption I don't have 9 firsthand specific knowledge that any 10 customers were lost 11 Q Did the CLEC seek any relief from being 12 suspended by BellSouth? 13 A I can't answer that I don't know 14 Q Did BellSouth figure out how the CLEC did 15 it? 16 A Well, it was an automated program, an 17 automated inquiry -- you know, automatic 18 dialing if you want to make it simple 19 It's just they're preordering interface 20 just kept querying indiscriminately down 21 the list of telephone numbers some of 22 which they had LOAs for and some of them 23 they didn't So when you have constant 24 dialing like that, you tie up the access 25 ports to get into the database</p>	<p>1 situation where BellSouth thinks that 2 unauthorized access to CSRs was going on? 3 A Well, I described earlier, what it would 4 mean to us in that we're seeing a 5 good-faith effort and we're willing to 6 work and, you know, these time lines that 7 we're asking for, if we're seeing a 8 good-faith effort going on We're not 9 trying to bump up against these time lines 10 and say, oops, five days is up you know 11 we haven't reached the point that you 12 should have reached by now It's not like 13 that We're working with them to resolve 14 it, not working within time frames 15 If -- Again, if there's no 16 evidence of cooperation then we have to 17 have the time frames But that's not our 18 intent to have to cut somebody off 19 Q Could working together involve BellSouth 20 visiting the premises of the CLEC? 21 A I imagine it could, yes 22 Q Could it involve BellSouth auditing the 23 orders placed by the CLEC? 24 A Yes 25 Q Could it involve BellSouth inspecting the</p>

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1	ordering systems of the CLEC?	1	MR MEZA Thank you
2	A I think inspecting is probably not within	2	MS JOYCE Mr Ferguson you'll
3	our right if you're talking about the --	3	receive a copy of this transcript and you
4	what -- the piece that the CLEC owns	4	will have 30 calendar days to make any
5	Now, certainly as their ordering process	5	corrections to that transcript and sign
6	interacts with the interfaces that we	6	it, and that signifies that you've
7	provide we could certainly have some	7	reviewed it Under the prevailing rules,
8	involvement in analyzing the interfaces,	8	if you do not sign the deposition it is,
9	but if there are terminals or databases	9	nonetheless deemed admissible and I can
10	that the CLEC owns we would assume that	10	use that at any state agency in this
11	they would take care of that We're not	11	proceeding Do you understand that?
12	going to suggest that we have the right to	12	THE WITNESS Yes I understand
13	inspect what they own But	13	that
14	collaboratively you say well, you know	14	MS JOYCE Well, I thank you
15	the interface looks good, could it be	15	again for your time and wish you safe
16	something on your end? And we would	16	travels home
17	expect them to investigate that We could	17	THE WITNESS Well, I appreciate
18	help them uncover potential problems	18	your time Thank you
19	Q In your experience in telecommunications,	19	(THE DEPOSITION CONCLUDED AT 11 55 A M)
20	have you ever known a state agency to	20	
21	reach a decision in five days?	21	
22	A I have seen rulings come out in less than	22	
23	five days, but they may not necessarily	23	
24	have been the final ruling or an order	24	
25	So I'm -- I'm -- I can't say for certain	25	
Page 206		Page 208	
1	that I've ever seen a process go from	1	ERRATA SHEET
2	beginning to end resulting in an order	2	
3	within five days I can't -- I can't	3	Case name In the Matter of
4	remember that	4	
5	Q Would your answer be the same as to have	5	Joint Petition NewSouth
6	you ever seen a formal complaint be	6	Communications for
7	resolved by a state agency in five days?	7	Arbitration with BellSouth
8	A I suspect that I have not I can't recall	8	
9	that I have, no	9	Deponent Scot Ferguson, Volume II
10	MS JOYCE All right We're	10	
11	finished with your two issues Thank you	11	Date
12	for coming	12	
13	MR MEZA I have one question	13	PAGE LINE READS SHOULD READ
14	CROSS-EXAMINATION	14	/ / /
15	BY MR MEZA	15	/ / /
16	Q Mr Ferguson, relating to this issue about	16	/ / /
17	terminating ordering abilities as a result	17	/ / /
18	of unauthorized access of CSR, if within	18	/ / /
19	the five days of the initial notice the	19	/ / /
20	Commission issues an order telling	20	/ / /
21	BellSouth not to do -- not to terminate	21	/ / /
22	service, would BellSouth comply with that	22	/ / /
23	order?	23	/ / /
24	A Absolutely BellSouth complies with all	24	/ / /
25	orders of the Commission	25	/ / /

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SIGNATURE

I Scot Ferguson do hereby state under
oath that I have read the above and
foregoing deposition in its entirety and
that the same is a full true and correct
transcript of my testimony
Signature is subject to corrections on
attached errata sheet if any

Scot Ferguson

State of

County of

Sworn to and subscribed before me this
day of 20

Notary Public

My commission expires

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CERTIFICATE

State of North Carolina
County of Harnett

I Nicole Ball Fleming, a notary public in
and for the State of North Carolina, do
hereby certify that there came before me
on the 7th day of December, 2004, the
person hereinbefore named, who was by me
duly sworn to testify to the truth and
nothing but the truth of his knowledge
concerning the matters in controversy in
this cause, that the witness was thereupon
examined under oath, the examination
reduced to typewriting by myself, and the
deposition is a true and accurate
transcription of the testimony given by
the witness.

I further certify that I am not counsel
for, nor in the employment of any of the
parties to this action, that I am not
related by blood or marriage to any of the
parties, nor am I interested, either
directly or indirectly, in the results of
this action.

In witness whereof, I have hereto set my
hand and affixed my official notarial
seal, this the 20th day of December,
2004.

Nicole Ball Fleming
Notary Public
My commission expires 3/30/05

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NICOLE FLEMING & ASSOCIATES
(919) 567-1123